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PUBLIC
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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION CREDO AND SPICER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 19 MAY, 2014

AT 10.03AM

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

THE COMMISSIONER: Yes, Mr Watson.

MR WATSON: Commissioner, just tying up something from last week. There's a curriculum vitae of Mr Koelma which I'd like to tender. I'll have a copy sent back to Mr Naylor and it's, it's got nothing of any startling value in it it's just that it is a document which I forgot that I had, I forgot to show it to Mr Koelma but he was the source of it so I don't suppose there'd be any dispute about it.

10 THE COMMISSIONER: That's Exhibit S91.

#EXHIBIT S91 - CURRICULUM VITAE OF TIMOTHY KOELMA

MR WATSON: And I call Darren Webber.

MR FERNAN: Commissioner, I appear for Mr Webber, Fernan's my name.

20 THE COMMISSIONER: Yes, Mr Fernan, thank you. Come forward please, Mr Webber, and take a seat.

MR FERNAN: I've explained section 38 to Mr Webber and he seeks the declaration and will take the oath.

THE COMMISSIONER: Thank you. Mr Webber, you ought to appreciate that the order that I can under section 38 of the Act protects you from the use of your answers against you in any civil or criminal proceedings but does not protect you against the use of those answers in proceedings for an
30 offence under the Act if it should be found that you have given false or misleading evidence. You understand that?

MR WEBBER: Yes, Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no
40 need for the witness to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS

**PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN
GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY
THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION
IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR
DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Can we have the witness sworn please.

MR WATSON: Are you Darren James Webber?---Yes, I am.

And you're the sitting Member for Wyong?---Yes.

You left school which year, Mr Webber?---1999.

10 And you took or commenced an apprenticeship as a smalls, smallgoods
butcher - - -?---Yes.

- - - but you didn't complete that?---No.

How long did you do that for?---Six months.

And then there was some delay until you commenced an apprenticeship as
an electrician?---Short delay of, of months, yes.

20 And then you commenced an apprenticeship as an electrician?---Yes.

Did you finish that?---No.

And how long did you do that?---Eight years.

And then you had a job for about two months between April and June 2009
working for a company called ING Direct - - -?---Yes.

- - - in a call centre?---Yes.

30

Are they the three employments that you've had apart from Eightbyfive?
No so sorry, that's not fair, I withdraw all of that. You did some casual
work for some Members of Parliament. Is that right?---Yes.

And one was Chris Hartcher - - -?---Yes.

- - - and one was Mike Gallacher - - -?---Yes.

- - - and the third was Malcolm Kerr?---Yes.

40

And we can see in the records I won't go to it if unless people require it but
for example in Exhibit S13 at page 3707 there's a suggestion that you had
earned \$6,150.00 in the year to 30 June 2009. It was that sort of earnings, is
that right?---Yes.

And then you also did some work of that kind between February and August
2010 earning about \$6,200?---Yes.

And what that was was occasional work when another electorate officer would be away sick or on holidays that sort of thing, is that so?---Yes.

And so it was just day work as it became available?---Yes.

Now is that the whole of your work history apart from Eightbyfive?---Yes.

And apart, once you ceased doing the work in August 2010 for the Members of Parliament was your only source of income Eightbyfive?---Yes.

10

And you had no other source of income for example people who owed you money or something like that?---Income no, no, not income, no.

All right. Now you joined the Liberal Party in about August 2002, is that right?---Yes.

And you held through your membership with the Party branch positions from time to time - - -?---Yes.

20

- - - including at one stage the presidency of a State Electorate Council? ---Yes.

And you're a Member of the Right Wing Faction?---That's what it's called, yes.

And you were pre-selected to the seat of Wyong in December 2009?---I was endorsed as the Liberal candidate for Wyong in December 2009, yes.

30

And at that time due to a number of factors you had some pretty significant financial problems, is that right?---Yes.

And you owed quite a bit of money on credit cards and other debts?---Yes.

And you were then do you say offered employment by Tim Koelma?---In around May of 2010, yes.

40

And how did that come about, what was his offer?---Mr Koelma approached me unsolicited and, and offered a position in relation to Government relations and local knowledge advice on a retainer basis, I agreed for a period of six months and there was an understanding that after that initial six months that there would be an offer to continue.

Was it reduced to writing?---Was it produced, no, no.

There was nothing in writing?---No.

Then what do you understand triggered Mr Koelma's desire to speak to you?---He, we obviously knew of each other through the Liberal Party and

presumably my knowledge as a candidate and access to Government and then Opposition information was what he was seeking.

You've been the President as I said of the State Electorate Council was that for Wyong?---For Wyong yes, as President.

I mean, any knowledge that you had of any of inner workings of politics was limited to those within the seat of Wyong, isn't that right?---No, that's not correct.

10

All right. So Mr Koelma came to you to seek you to do what, provide him with what precisely?---Ah, once I'd commenced the ah, working for him it was obviously quite clear, I was to source Government and then Opposition media releases - - -

No, I'm so sorry, I put the question poorly, it's my fault not yours. I was really asking you about when this was initiated. He's come out of the blue, you said it was unsolicited - - -?---Yes.

20

- - - to ask you to come on board. What did he tell you he wanted?---Ah, information.

What sort of information?---Information that was readily available but he wanted collated in a, in a manner that would make it easier for him to ah, then put onto his clients.

30

What do you mean by that?---So the nature of the work um, is the best way to describe it. I'd sort, go through then Government members' websites seeking media releases, policy statements, I'd collate them or at the very least have a list of them and then present them to Mr Koelma and he'd ask for more information about them, times, specifically amounts if it was a costing or a ah, election commitment.

You said that this information was readily available?---Yes.

You then described using open sources?---Yes.

40

Why couldn't Mr Koelma do that himself?---He could have done it himself, he was asking me to do it to ah, presumably save himself time and, and give my background knowledge on particularly the Shadow Ministerial information, some of which would have only been available to myself and my campaign.

What was that?---Wyong election commitments, Shadow Ministerial visits to the electorate of Wyong on the Central Coast as a, as a region.

So are you saying that the Wyong electoral commitments were being kept secret?---No, no, they're - far from it but there's a timeline in which they're

announced to make, to attempt to maximise media exposure to get the information out to the electorate in the best way possible. These are collated and organised and brainstormed in the very early parts of an election campaign and then distributed over the, over the course of the election campaign.

So were you giving him information which was otherwise secret?---No, not secret, certainly not secret in the realm of the Wyong Conference and the Liberal Party itself and the Shadow Ministerial offices.

10

Well, then what value was this to Mr Koelma, why couldn't he have got that for free?---Well, he could have when they were publicly announced with everyone else but ah, that wasn't the arrangement.

Well, could you tell us anything, any information whatsoever that you provided which Mr Koelma could not have got for free?---Eventually, no.

Right. So everything that you gave him was available through open sources in any event?---In the course of time, yes.

20

Well, sorry, are you saying that you provided information ahead of time, that is while it was still secret?---I didn't say it was secret, I disagreed with you there, Mr Watson. What I'm trying to say is that I've given him information that would have been readily available eventually and also information that was as you said readily available off websites and open sources.

Well, give us examples of material which you gave to him which otherwise wasn't available from open sources?---Ah, upcoming Shadow Ministerial visits, so quite often a media alert is, is released or the campaign team are told the night before, particularly if it's a leader or a senior Minister, so as soon as that was planned and particularly if there was a commitment coming with it or a State-wide policy announcement that would be forwarded to Mr Koelma.

30

Anything else?---Ah, just media releases for Wyong specific election commitments that weren't put out at that stage but were due to be put out later.

40

Well, so you gave those ahead of time did you?---Yes, as I did with my conference members.

All right. And tell me, on what subject, subjects?---Um, the two that come to mind, because they're, they were the biggest in terms of financial commitments in my electorate, or three rather, were the election commitments for the Warnervale Town Centre, Wyong Road and Pacific Highway through the Wyong CBD.

And how could these things be of any value whatsoever to Mr Koelma?
---Ah, that's a question for Mr Koelma, I never questioned the advice I was giving him.

Well, what, who were the clients that he had?---Ah, up until this hearing I was not aware.

You never asked him?---No, and nor did he volunteer it.

10 So was he seeking this information from you specifically, for example, did he come to you and say do you have any information on the developments in the Warnervale Town Centre?---Ah, not to my recollection, no, it was a case of do you have updates and I would, I would volunteer them on a weekly or whenever we were meeting basis.

Well, what was he using it for?---Ah, presumably some of it for his clients. Um, if, a lot of it was disregarded, I mean, obviously there's a lot of menial Shadow releases being ah, released that obviously weren't of interest to him or his clients and they were discarded.

20 So you think he may have had clients who could have been interested in the developments on the Warnervale Town Centre?---Ah, I, I never thought that all, it's possible.

Well, why would, why would he want it? Why wouldn't he say oh, god, don't tell me about that, I've got no interest in it?---And sometimes he would.

30 Right, okay. Well, tell me this, you must have thought he - - -?---Not in, not in that manner but sometimes he wouldn't be interested, no.

You must have thought that he had some interest in the Warnervale Town Centre, that was something you specifically recalled providing him with?
---Not, not specifically, no, I don't recall that because as I said it was one of the three big election commitments for my electorate, I remember the conversation with him because I was quite excited I'd been able to get that arrangement from the Shadow Ministry.

40 And so you gave him information in respect of the Warnervale Town Centre before it became publicly available did you?---Outside of the Liberal Party, yes.

And does that mean that you were willing to provide information which was otherwise secret to the Liberal Party to Mr Koelma and his clients?---Well, no, it wasn't secret to the Liberal Party, its - as I've said, its the same information I, I volunteered to all Liberal Party members. There's - my understanding is there's some value to being a member of the Liberal Party other than having to rock up to polling day and, and hand out and cop

abuse all day handing out how to votes. Um, being a member of the Liberal Party they can also debate what I'm announcing - - -

That's all right, I'm just asking about a specific matter. Excuse me. I'm asking you this, were you giving him information which was otherwise not publicly available?---Sometimes it was publicly available, sometimes it wasn't.

10 I want to get something that you gave to Mr Koelma which wasn't publicly available, could you tell us something that you gave to him which was of value to him which he couldn't have otherwise got from other sources?
---I think I already mentioned the fact that Shadow Ministers - - -

Well, mention them again?--- - - - Shadow Ministerial visits before they'd occurred on the eve of them occurring and some of the policy, election commitments prior to them being announced publicly.

20 And how could that be of value to Mr Koelma to know on the eve of a Shadow Minister attending somewhere that that was to occur?---Ah, he's ahead of the ball, he, he knows about it and he knows what its about before it's in the media, he also sees the Shadow Ministerial release before its filtered by the media.

But how, how is that of value?---Information knowledge.

But how is it of value? I mean, I can know now - - -?---That's, that's - - -

30 - - - that Greg O'Mahoney likes blue ties but it's just of no value to anybody, you see what I mean?---That's - Mr Koelma, that's a question for Mr Koelma, I was simply giving information to Mr Koelma as requested.

It's not, Mr Webber?---What he does with it is a question for him.

It's not. You were being paid a lot of money month in, month out, month in, month out. We want to try and work out whether this was genuine. You appreciate that, don't you?---I, I understand it, I certainly don't appreciate it, yeah.

40 Right. Tell us, tell us what it was of value that you could give to Mr Koelma?---I'll say again information.

THE COMMISSIONER: Mr Webber, could I ask you a question. You said that the retainer was for an initial six months with an option to, to continue that retainer?---Yes, Commissioner.

You said that you weren't aware of who Mr Koelma's clients were until this inquiry?---That's correct.

And this was your only source of income while you were campaigning for the seat of Wyong?---Other than that initial ATS work, yes.

So you were quite keen I take it to see this work continue so that you would continue to be paid on a retainer?---Up until November or December when ah, it was made clear to me that the election was actually winnable for us um, and then I needed to be campaigning fulltime ah, I did not continue on from the initial six month period but prior to that absolutely.

10 Well, would it not have been in your interests to say the least to ask Mr Koelma who his clients were and what type of information they required so that you would make yourself of value to Mr Koelma's business?---Well, no, I saw my value as, to Mr Koelma, my relationship was face to face with Mr Koelma, um, I'm, I need to satisfy Mr Koelma's needs um, who his clients were and provided he was satisfied with my work I, I wasn't concerned about it.

But you, you said yourself that you gave him a lot of information that he wasn't interested in?---Yes.

20

If you knew who his clients were you could have provided information which made you indispensable to his business?---Okay. So the nature of um, the relationship and the meetings we would have is I'd present all the information available to me and he would pick and choose what it was, what it was he wanted. The fact that he was able to gazette um, I think was my value at that, he was able to gazette all the processing that I'd done on his behalf rather than him having to go through and search the information I'd done on his behalf.

30 So I take it from what you've just said that you spent a lot of time sourcing and providing information to Mr Koelma that he didn't ultimately find useful at all?---Sure, a lot of it, yes.

MR WATSON: Well, do you know of any information you gave to him which was of any value to him?---Ah, well, obviously any big election commitment um, was um, he was certainly interested in um- - -

40 Yeah, but that's, that's a different thing. I'm talking about something of value to him?---Well, he wouldn't advise me whether it was of interest to him or to his clients, I was simply aware of whether or not he was interested or not, I wasn't aware of what the clients wanted.

So the position is this. You wouldn't know whether you gave him even one slip of information which was of any value to him. Is that what you're telling us?---Ah, all the information I gave to him was of value to him, that's why he paid me for it.

Well, you said that you collected and collated and then I think you said something about indexing. Have you got anything, just one document, one single page, anything which evidences this work?---Ah, no, other than the fact I've paid ah, tax on the work.

Just put that aside for a moment. Are you saying you don't have one document, one copy document, one – even one page which provides any hard evidence of this work you say you provided?---No.

10 You're agreeing with me, you don't have it?---No. As I've explained in prior- - -

Well, no, just you're agreeing with me you don't have anything?---No, and there's good reason for that.

Sorry, it's just the transcript, you just have to answer my question. Are you saying that you do have something to evidence the work or not?---No.

20 All right. Now, I think this is what you were going on to say. Could you tell us now why, given the length of the retainer that you had, you do not have even so much as one document which would evidence any work you did for Mr Koelma?---The Shadow Ministerial releases or indeed of the day Government releases were printed off and I would hand him out the printouts. They weren't something that I saved or collated, it was collated for him in hard copy, presented to him when I'd meet him. There was no need once I presented it to him for him, for me to keep it.

But there would be a record- - ?---I'm sure I've got copies- - -

30 - - -on your computer?---I've got copies um, of all of my ah, election commitments and Ministerial releases and policy documents from the Liberal Party but that's for my election keeping, not for the specific purposes of giving to Mr Koelma.

Thank you. But you just said that the material which you collected for him was printed off and provided to him in hard copy?---Yes.

40 Wouldn't it then be embedded on your computer, wouldn't you have some record of it somewhere on your computer?---Ah, outside of browser files I don't believe so.

Why not? Whenever one makes an electronic entry a footprint is created of kinds. Are you saying that there would be such a footprint available if we searched your computer?---Ah, for four years ago I would highly doubt any computer would keep a footprint for four years.

Have you looked?---Have I looked for footprints?

Yes?---No.

Why not?---I'm not aware of how footprints are kept or embedded as you say, I don't have that sort of technology ah, readily available to me. I've certainly looked for hard copy documents and saved files on computers, yes.

Weren't you a co-proprietor of Webbbson Electrotechnology Experts?
---Webbbson Electrotechnology and IT Experts, yes.

10 So are you saying that there could be on your computer today records that we could look at and verify that you have been doing work or you did do work for Mr Koelma?---No.

Well, why not?---Ah, the original – the computers used at that time ah, I no longer possess and any images or backed-up copies wouldn't have these ah, file histories you mention.

Why not?---Well, that's why people use software like Norton Ghost and Microsoft, to clean up and speed up your computer.
20

Well, so, well, what's happened to the images, what have you done with the old computers?---Ah, they've been disposed of over time.

And when did that happen?---Ah, from year to year, many times. Computers last me several, a couple of years at a time.

Well, see, wouldn't there be email correspondence, emails which passed between you and Mr Koelma, something that we could look at to see for example when you'd appointed times to meet each other?---Ah, potentially.
30 Most of the time it was a case of meeting each other or all of the time it was a case of meeting face to face. My recollection is there's very few ah, email conversations between me and Mr Koelma.

Well, then there would be, you would say no doubt, if no email record, a clear telephone record showing times when you called Mr Koelma and he called you. Is that right?---Ah, there may be several calls but it wasn't of that basis, we were simply meeting on a regular basis.

Well, sorry, what, did you have a longstanding arrangement that you'd meet at what, 10 o'clock on the second day of each month or something like that?---I wouldn't call it a longstanding arrangement, more, more often than not it was erratic but it was certainly over lunch a lot of the time.
40

Well, how would you know where he was going to be or how would he know where you were going to be?---Ah, he would have known ah, where I would have been um, I was more easily tracked than him, he was a very busy gentleman um, and he would have relied more often than not of ah, me being in a location that he was able to go to.

THE COMMISSIONER: Mr Webber, a moment ago you said that, you know, when there was a Shadow Ministerial visit planned and sometimes that was done the day before, one of your tasks was to get that information out to people before it became public?---Yes.

Well, how did you contact Mr Koelma when those kinds of things came up and you needed to feed that information to him?---Ah, basically face to face. Um, the Liberal Party ah, we'd often have campaign meetings um, he'd be
10 in a campaign meeting or I'd be in Erina at the time or I'd be with him at the time I was told.

What, you mean these unexpected announcements of Shadow Ministerial visits and you would just count on the fact that you'd see him face to face?
---Yes.

And provide the advice orally?---Yes.

And was that advice- -?---Oh, and a printout of the actual media release
20 itself.

And was that done in the context of providing it to everybody in the campaign office?---Yes.

So you weren't providing it to Mr Koelma in particular, you were providing it to everyone?---Everyone in my campaign the Liberal Party team and exclusively Mr Koelma, yes.

I'm sorry, I thought you said that he was, he would always be at the
30 meetings in the campaign office?---No, he could be from time to time. In Erina he was more often than not but in Wyong less so.

So you just relied on these chance meetings to communicate this information that you obtained on Mr Koelma's behalf?---Given the nature they were more so common than, than, rather than chance, yes.

I'm sorry, that doesn't make any sense to me?---Quite often I'd see him every day of the week.

40 You didn't have any regular meetings or appointments set up with Mr Koelma wherein you discussed what information you were able to give him pursuant to the retainer?---No.

None at all?---No.

I don't suppose you kept any appointments or anything like that in your mobile phone diary either?---In my mobile phone diary?

Yeah?---Now?

Well, then?---Then I would have, yes.

MR WATSON: Well, what's happened to that? We'd love to see it, you see, Mr Webber?---Ah, the mobile phone, I, I change mobile phones every year and I've made the jump from Nokia to Apple and, and all the files on Nokia are, are lost.

10 And so again we're left in the unfortunate position where there isn't one record on paper or in electronic form which can verify what you're saying. Is that right, Mr Webber?---In, in the face of the current accusations it's incredibly unfortunate, yes.

Yes. And it is. And even worse is this, is that these announcements that you would make to Mr Koelma- -?---Sorry, these?

20 These statements that you'd make to Mr Koelma, the information which you provide him, as I understood your answers to the question of the Commissioner, you'd make those out loud to anybody who happened to be present at the same campaign meeting. Is that right?---Specifically for the seat of Wyong, yes.

Were you charging them \$5,000 a month for this valuable information?
---No.

30 Why would Mr Koelma pay for it if he could have got it like anybody else for free?---Because the Wyong specific parts were only part of the information I was giving him and he wanted all the information I was seeking and he wanted it prior to it going public where the media filter the media release. I'm yet to see a publication that reproduces a media release word-for-word.

Well, but you see the point is I tried to get from you what it could be of value that you got to Mr Koelma and one of the things you laid emphasis upon was this early warning that Shadow Ministers would be in town. Remember you said that?---Yes.

40 That was of no value to him, he could have acquired that for free, couldn't he?---Potentially.

Can you now tell us, what is it that you gave him? I've asked you this, it seems to me to be becoming more and more important.

MR FERNAN: I object. I object, Commissioner.

MR WATSON: I'll withdraw that, I'll withdraw that. Tell me this. You said that at times you'd be seeing Mr Koelma every day. Where would that be?---Ah, in Fountain Plaza in Erina.

And what's at Fountain Plaza in Erina?---It's a group of shops, so there's cafés, newsagent, medical centre, Chris Hartcher's Electorate Office. It's across the Pacific Highway from the then Liberal House. There's a, there's banks of several descriptions, there's a barber um, it's basically a mini suburb.

10

And is that far from Wyong? How, how long would it take by car?---20 minutes to half an hour, 40 minutes dependent on the time of day.

And of course Erina is in the seat of Terrigal isn't it?---Yes.

And why would you be there rather than in your own seat nearly every day as you said?---Well if I wasn't doing ATS work I was assisting in the Federal campaigning or the group joint State campaigning done in Liberal, out of Liberal House.

20

No, this is during the time of your retainer we're talking about?---Right.

So the ATS work, I got that wrong before I said it went through 'til August 2010 that's quite wrong. It seems probably to have stopped by December 2009, does that sound right to you?---No.

All right. When did it continue until?---Some time in 2010 is my understanding.

30

It didn't go beyond February 2010 did it?---I'm not aware, I mean you've just said August 2009 now you're saying February 2010, I mean pick a date.

No, that's, yeah, I was wrong, I get that wrong every now and then I make a mistake?---We all do, Mr Watson.

Yeah. Well let's just think about this, so you would see Mr Koelma you said, you said the Commissioner at times virtually every day - - -?---Yes.

- - - and he would be at Erina?---Yes.

40

At the same place where Chris Hartcher held his electorate office?---Yes.

Right. Could the witness be shown Exhibit S13. Would you open this up at page 3539 hopefully it's the first page or something that I'm not - yes, you've got it as - - -?---3448?

No. 3539 if you don't?---49?

3539?---Oh. 3539.

Yes, thank you. I just want to show you something that we've been able to collect, the records are there behind it you'd be aware of that, wouldn't you by now?---Yes.

Now it shows when there have been in this instance direct electronic payments made by Eightbyfive to your account. Do you see that?---Yes. And, and when can see that these moneys are going through. Look at the one which is on the 21 January 2011. We've got evidence that Mr Koelma withdrew \$8,000 in cash at 11.09am at Erina. Do you see that?---Yes.

And that at 11.56am you deposited \$4,000 in cash at Tuggerah?---Yes.

Was that money you received from Mr Koelma?---I cannot say.

Well where else could it conceivably have come from \$4,000 in cash?---In cash potentially from my father or from an account I've withdrawn from.

20 Mr Webber, I can tell you in these volumes the people here have gone through it and you did not have that kind of cash available to you I can assure you of that, you were heavily in the red in several sources at that time. Will you accept that?---Yes.

Well where else could it have come from apart from your father or Mr Koelma?---From one of the creditors I, I sought funding from.

Sorry, one of the?---Creditors I've sought funding from.

30 Who were they?---Commercial banks and individuals that you've got the loan agreements in your brief.

All right. Well so you've gone along to what, something like the National Australia Bank and they've given you a loan in cash. Is that what you're telling us?---No. I think their usual manner of fashion is it's a funding deposit into your account or a new account set up on your behalf.

Well we can't find a corresponding document to support that, Mr Webber. Is that just that something you're making up?---What am I making up, Mr Watson?

Your evidence?---No, Mr Watson.

Right, okay. It's \$4,000 cash that you received from Mr Koelma isn't it? ---It's quite possible but I can't give a definitive answer.

You say the other alternative is that your father gave you \$4,000 in cash, is that right?---Quite possibly, yes.

Do you ever remember your father giving you \$4,000 in cash?---Yes.

And so it could be \$4,000 in cash from your dad or it could be \$4,000 in cash from Mr Koelma?---Yes.

All right. Which do you think is more likely?---Well if the – at that stage in January if the money – which, are we aware of which account that’s gone into?

10

Yes?---533938 - - -

It went into your account in Tuggerah?---Well then – I mean I’m not denying it, it’s possible it’s from Mr Koelma but I can’t give you a guarantee.

Well I’m talking probabilities you see. It is probable it came from Mr Koelma?---It’s possible.

20

What do you mean possible, what is more probable? What else is there? ---Well I’ll given the alternative option and I’m - - -

Well, the only other one is your father so we could go to his bank accounts and call him in and ask him whether he got \$4,000 in cash out for you? ---Sure.

Is that right?---Yeah.

30

Which now sitting here do you think is more probable?---I’m not in a position to say which one is more probable given - - -

Okay. Well have a look at page 3549?---Yeah.

You’ll see here we’ve got records that Mr Koelma on the 5 July, 2010 withdrew cash at Erina and that on 5 July you made deposits at Erina both cash. Do you see that?---Yes.

40

Now that’s money from Mr Koelma isn’t it?---I believe the 5th of 7th, the 5 July 2010 is, yes.

Well let’s have a look at the next one, 30 July 2010 we’ve got evidence that Mr Koelma is withdrawing cash at Erina \$5,000. Do you see that?---Yes.

And you’ve banked \$4,500 shortly afterwards at Erina. Do you see that? ---Yes.

That’s got to be money from Mr Koelma doesn’t it?---Possibly, yes.

What do you mean possibly, what else could it be? Lucky day the races?
---No, I don't gamble and I wasn't in a position to then.

Well what else could it be?---A source of funding being father or one of my
creditors and I've deposited it in the account that day.

Sorry, who else, your creditors? Just tell me who they are again?---Well
you know very well, Mr Watson, in the back of your brief there's a loan
agreement - - -

10

No, no, I know very well that what you're saying isn't true you see. We've
been through your financial records. It did not come from anywhere else it
came from Koelma admit it?---I, I'm not in a position to agree with that at
all.

All right, well that's okay. You - 10 September Mr Koelma is taking out
cash at Erina - - -?---Yes.

20

- - - and you're depositing cash. Do you see that?---Yes.

Where are you getting the money from if not from Koelma?

MR FERNAN: Well I object to that, Commissioner. That question's
already been put and answered. With respect it's repetitious - - -

MR WATSON: This is a new date.

MR FERNAN: No.

30

THE COMMISSIONER: This is a different, this is a different day. Sorry,
what date was it?

MR FERNAN: Well it's 30 July.

THE COMMISSIONER: 30 July.

MR FERNAN: He's already asked where the 30 July came from and Mr
Webber gave a clear answer and answered that particular one and this is just
now repeating what he's already answered.

40

THE COMMISSIONER: I didn't think the 30 July had been put.

MR FERNAN: Well - - -

THE COMMISSIONER: Anyway, go on.

Mr point about it is, Mr Webber, that here we have not just one but a series
of withdrawals and deposits in roughly the same amount at Erina over a

period of time which suggests that as Mr Koelma withdrew money you deposited similar amounts at the same location.

MR FERNAN: Well I object to that, Commissioner. That's not a correct statement of what's recorded on that schedule of they're similar amounts. In fact the later two payments are quite different amounts that have been withdrawn and then deposited.

10 THE COMMISSIONER: I was talking in terms of where we got up to thus far. Anyway, look the point is, Mr Webber, it's not just a one-off deposit of an amount that is withdrawn by Mr Koelma there are a number of these transactions. What Counsel Assisting is putting to you is that in the context of this series of transactions it is more likely than not that it was Mr Koelma who took the money out and it was that money that you deposited because it's in the same location at about the same time. Now is that a proposition you can agree with or not?---No.

20 Why not?---Ah, well the fact that we were in the same location at the same time is not uncommon, as I've said before and if I've sourced funding from - - -

Yes, but it's the context of the, it's the context of the activity and the place coinciding so why don't you agree with the proposition?---Ah, because if I've gone there with money that I've sourced from my father or other locations and I've gone to the bank prior to or after meeting with Mr Koelma then it's, obviously it's going to happen at a similar time in the same location. I think they're different banks but within the same plaza.

30 But this is in Erina and I think you indicated earlier that it would take you 20 to 40 minutes to get from Wyong to Erina. Are you going all that way to deposit money in a bank?---Ah, if that, if Erina's the first place I'm going to on my daily activities then that would be the first bank that I'd go to that would be open, yes.

MR WATSON: So how much in total did you borrow from your father?---Ah, I don't have an exact figure but it's in the 10s of thousands of dollars.

And that's in addition to all the other debts you had?---Yes.

40 But you say, "Look, it may not have been my father who gave me the money. It could have been one of my other," as you call them, "creditors"?--Yes.

Who?---Ah, Westpac Bank, St George Bank, City Bank.

So were you taking out personal loans at this time?---Ah, I had previously and I had access to funds from some of them, yes. And credit cards of course.

So you say - - -

THE COMMISSIONER: Sorry, did you - - -

MR WATSON: - - - in all seriousness to us, "These funds could have been \$400 in cash that I had drawn down on a loan from Westpac"?---Or a credit card, yes.

10 THE COMMISSIONER: Did you say Westpac or St George did you?---
Yes.

But if you had personal loans from these institutions why would you be putting money in the bank?---Because other accounts had different due dates for payments to be made.

So you were borrowing from one bank and, to pay off another?---For a period of time I was, yes.

20 MR WATSON: Well even better than that on 5 July it seems like you borrowed money from St George to pay Westpac and on the very same day borrowed money from Westpac to pay St George. Is that it?---Why is that it?

Well have a look. 5 July, 2010 you've made a \$1500 payment to WBC, that's Westpac Bank Incorporation?---Yes.

30 And a \$1500 payment to SG visa, that's the St George visa card?---Only moments ago, Mr Watson, I agreed that 5 July was most, almost certainly a payment from Mr Koelma. It's money I've lent from Mr Koelma to pay the Westpac Bank and St George.

All right. Well, but you'll see in the next one, 30 July, same thing. You're paying \$400 to CBA. That's a credit card isn't it?---Commonwealth Bank, yes.

And \$2,100 to St George. That's a credit card isn't it?---Yes.

40 And \$2,000 to Westpac. That's a credit card isn't it?---No, that's a transaction account.

All right. Well, tell me why were you paying in cash? Why was your dad giving you money in cash or Westpac giving you money in cash? Why?---Ah, that was what was convenient for him.

Yep. But - - -

THE COMMISSIONER: Mr Webber, I'm sorry, I've had this problem with Mr Koelma. You're all supposed to be, I don't know, eugenics or gen Y, I don't know but I thought - - -?---Gen X.

- - - visits to banks and hard copy letters were a thing of the past with your generation. I mean, there is such a thing as an electronic funds transfer isn't there?---There is. You're talking about gen Y I believe. Gen X certainly know - - -

10 Well I don't care which gen but look - - -?---Gen X value the money.

Mr Webber, you could sit at your computer in your office in Wyong and you could do all of this electronically. Why were you travelling to Erina to deposit cash in a bank?---I wasn't specifically travelling to Erina to - - -

Well all right?--- - - - deposit money in the bank.

20 Why were you carrying cash around to deposit it into a bank?---Because if I visit my father and he's given me cash money I'm then on my way - my dad doesn't internet bank, he doesn't have a keycard.

Well forget your father. You just said that you had loans from Westpac - - -

MR FERNAN: Well, I object to that, Commissioner.

30 THE COMMISSIONER: No. I want an answer to the question. You just said you had loans from Westpac and St George and are you telling me that you actually took money out of an account, physically took the cash to deposit it into another account rather than do an electronic funds transfer?---
From time to time, yes.

Oh, really?---Well - - -

You must have had a lot of time on your hands, Mr Webber. Anyway, go on.

MR WATSON: Well Mr Webber - - -?---I still do by the way. I still go to a bank and pay bills by cash from time to time.

40 All right, well - - -?---Gives you an appreciation of the money you're handing over.

That's great, Mr Webber?---It is.

Thank you. Now, would you open it up at page 3744?---734?

3744?---Oh, 44.

So you understand the position put against you, Mr Webber, what we're asserting is that these are all payments you received from Mr Koelma, or Eightbyfive. Do you understand that?---The whole lot in the debit column?

The whole lot in the credit column?---Oh, right. Okay.

You must have looked at this before, surely, by now?---Yeah, but I didn't, I didn't understand if you were trying suggest that all the moneys in the debit column had been given to me, or the credit column. You've just - - -

10

Dear me. What, you can't even read an account like that, a simple account?

MR FERNAN: I object to that.

MR WATSON: Well, I mean it does, have a look at it. Up the top "5 July, 2010 Withdrawal from the Account of Eightbyfive." Did you think that we thought you were withdrawing money from Eightbyfive did you?---No. You suggested previously that all of those funds went to me and that, they wouldn't have because my payments were 4950. There's other amounts there, I mean there's 11,000 withdrawal. Are you suggesting I received \$11,000?

20

No. Well - - -?---Well - - -

- - - it doesn't seem like there's much profit in pursuing that with you, Mr Webber. Have a look at page 3722. Do you recognise that document?---Ah, yes.

Do you recognise the handwriting on that document?---Ah, no but I can ascertain who it was given the previous documents having the same handwriting.

30

You know you were the one who prepared the typescript document don't you?---Yes.

And what you were doing was supplying this information to your accountant?---Yes.

And it's headed up, "Webbbson Pty Limited – Income"?---Yes.

40

And it's for the period June, 2010 until March, 2011?---Yes.

And what you've set out pretty clearly is an income of \$49,500?

MR FERNAN: Oh, but that's not – I object – that's not what that document says?---No, not at all. It's, that document is a proposed income - - -

MR WATSON: Well sorry, I, I've been told I'm wrong. Let's just count them up. One, two, can you follow this, three, four, et cetera, ten months. Do you see that?---I also see that some months are in bold.

Do you see, do you see that? Answer my question unless you're directed otherwise?---Yeah.

Do you see that?---Yes, Mr Watson.

10 10 months?---Yes, Mr Watson.

Do you see Webbbson Pty Limited income?---Yes, Mr Watson.

Do you see the sum against each of those 10 months is \$4,950?---Yes, Mr Watson.

Now, can you do the simple maths, 10 times \$4,950?---And the figures given there for you at the bottom, \$44,550.

20 Yes, plus the other \$4,950. Do you see that?---Yes.

I think I might be right. 40,900 – \$49,500?---You're right about the figures. You're wrong about the intent of the document and you claimed it was the intent of the document. That's what I was objecting to.

THE COMMISSIONER: No, he - - -

MR WATSON: No. Just - - -

30 THE COMMISSIONER: He didn't say anything about that, Mr Webber. He just said this was a document prepared by you for you accountant and it shows income, and I understand that the line drawn under June, 2010 would have been to signify the end of that financial year and the beginning of the next?---Yes.

Well - - -?---But doesn't - - -

40 Don't anticipate the question, Mr Webber. You'll get yourself into more trouble that way?---But I was objecting to it showing income. There is a, there is a difference between projected income and potential income.

MR WATSON: No sorry, I didn't, we haven't got to that yet. We haven't got to that yet.

THE COMMISSIONER: As I said - - -

MR WATSON: Your (not transcribable) - - -

THE COMMISSIONER: We, you really have to way for the question. The only thing Counsel Assisting took you to was the heading on the document that says, "Webbbson P/L – Income." Right, go on.

MR WATSON: And, and you agree you typed it up?---Yes.

Now, what did you mean when you typed that, that up, "Webbbson Pty Limited – Income," what do those words mean to you?---That the figures in bold were projected income for the year ahead at that stage. I think this was
10 November, sorry, ah, recall the date it was produced but ah, bold was figures that were either accounted for or projected and, and the italics are potentially if the agreement was continued.

This would be the income of Webbbson Pty Limited?---Yes. Yes.

All right. Tell me this, you didn't pay tax for some time on any of the money received, is that right?---Ah, November, 2010 tax was paid - - -

Just answer the question.

20

MR FERNAN: Well he is answering the question?---Well, I did. I paid tax on the first payment in November, 2010.

THE COMMISSIONER: No, just a minute. Look, please. Please. We've had enough trouble with the transcript with people talking over the top of one another so can we just let the witness answer the question.

MR FERNAN: That's my objection. Thank you.

30 THE COMMISSIONER: Yes, Mr Webber?---Yes. Within three or four months the tax on the first payment was made and that's when this document was produced.

Sorry, now I don't understand that answer. Counsel asked you whether or not you did not pay tax for some period of time?---That's right and I - - -

And what's, what's the answer to that question? You didn't?---Tax was paid in November 2010 when this document was produced for the very first
40 payment.

So the document was produced in November 2010 was it?---October to November 2010, yes.

MR WATSON: So what about the year after that, did you file your tax returns in time?---No.

And at that time, by the time the tax returns were due you were a Member of Parliament?--- Yes.

Was there some reason why as a Member of Parliament you weren't filing your tax return?---Yes.

Well, I suppose we'd better hear it?---Ah, basically reconciling the amount of payments and the, and the dates of the payments and waiting for Mr Koelma's um, arrangements after his unfortunate loss of documents to ah, confirm what his recollections were of the payments.

10 I don't understand that. Did that, does that free you of an obligation to pay tax does it?---Of course not.

Well, whose obligation was it to prepare and submit tax returns?---For the company of Webbbson, mine.

Right. And so - and you didn't do it?---No.

You're agreeing with me that you didn't do it?---No, not until this year.

20 THE COMMISSIONER: Well, are we talking at all or for some period of time?---The, the tax returns were not lodged until April I think of this year.

April 2014?---Yes.

MR WATSON: It was after all these issues were raised with you by ICAC, correct?---Ah, the lodgement, yes, the process with the accountant of putting it together, no.

30 All right. So you, you were explaining to us why you didn't file tax returns and you started blaming it on what, Mr Koelma?---Ah, I was reliant on Mr Koelma being able to confirm dates and, and, and amounts.

Why?---Because I didn't have original copies of the invoices.

Why?---Ah, I don't, I had no longer hard copies of them and the soft copies were lost on the computer.

40 What do you mean lost on the computer?---Well, the ah, solid state hard drive in the laptop had failed in 2010 I think it was, late 2010, early 2011 I think.

Did you know Mr Spence has given evidence?---Mr Spence, yes.

Yes. Did you hear why he said he didn't have copies of his invoices?
---I believe his computer failed.

And are you saying that exactly the same thing happened to you?---No.

What happened to you then, did - - -?---A similar thing happened to me but I don't believe it was the same thing.

All right. So your computer failed which meant that you didn't have copies of your own invoices?---Yes.

10 Well, then why couldn't you use your banking records?---Because my banking records um, to the best of my abilities could only account for five payments coming to Webbbson, I was aware to the best of my recollection there were six and I was waiting for Mr Koelma's advice on to when the payments and how many payments were made in the end without Mr Koelma being able to provide that advice I simply made a declaration to the Tax Office to the best of my recollections and that's how we lodged a, a tax return this year, in the absence of any originals and in the absence of Mr Koelma being able to confirm for us.

20 THE COMMISSIONER: Mr Webber, I just need to clarify something with you. When these monthly payments were made were they regularly banked into your bank account, a nominated bank account?---I, I - yes, into the Webbbson bank account with the exception of two, a cash payment which I deposited into my Webbbson account but that only accounts for five. There is one of the cash payments that Mr Watson put me, put to me before which must have been the sixth payment.

Well, so what you've just said is that you weren't under any disillusion, sorry, you weren't under any, any illusions about how much money you were getting, it was just this one monthly payment in the amount of, what was it, \$4,900 that you couldn't verify?---Yes, and - - -

30 And you needed Mr Koelma to verify that for you?---Needed Mr Koelma to verify the dates and whether or not it was five, six, less or more, I mean I had proof that it was five, I couldn't prove beyond that how many there were.

40 But you just said a moment ago you, you knew there were six but you only had banking records for five?---Since this brief's been presented and it's and it's reasonable clear to me given the dates I would agree that the first payment was the sixth payment, yes, presented to me on that list, the Excel spreadsheet.

And so the, the question of when the first payment was made was what prevented you from compiling a tax return until what, some time late 2013? ---And having Mr Koelma agree to um, and having, and him being able to find original copies of the original invoices.

Well, why would he have to agree to that? You can declare an income by way of production of banking records. You don't have to have invoices to

submit a tax return?---That wasn't my understanding at the time and I was only being able to show five payments in my bank accounts.

MR WATSON: Well, what - sorry, you were a Member of Parliament and you thought you needed what, invoices to prepare a tax return?---The original invoices issued, yes.

10 On your view of tax laws does that mean that if I lose my invoices I'm freed of paying tax?---I've never suggested anyone's freed of paying tax, Mr Watson.

Well, does it mean I don't have to file a return?---I've made measures as you know very well with my accountant to start it.

20 No, no, I'm just wondering how anybody, how an adult could be under the misapprehension that they were paying tax on invoices rather than earnings? ---I quite clearly started negotiations with the accountant to lodge a tax return, I was waiting for Mr Koelma to be able to confirm it to make it a 100 per cent certain figure and timeframe.

Did he ever do that?---No.

Why not?---Well, not, not yet.

Not yet. Has he promised when he'll do it by or made you any offers in that respect?---He's given an undertaking he's going to be doing his very best, I suspect these proceedings have probably ah, halted proceedings for a while.

30 Could you open that Exhibit S13 at page 3694. Do you have that?---Yes.

You'll see that this is an invoice issued by I guess you?---Yes.

But based upon your earlier evidence you must be saying now that this is not an invoice issued at the time, is that right?---I don't believe so, I think this is a replacement issue ah, invoice, yes.

Well, nobody's going to know better than you. Is this the original invoice or is it a replacement invoice?--- I believe it's a replacement invoice.

40 And what makes you believe that?---Ah, the ah, head, the, heading um, being amended from the originals.

Is that a real ABN, did you, were you actually registered with an Australian Business Number?---Yes, yes. Where's the, where's the - oh yeah, there.

Did you ever omit GST?---Ah, no.

Right. Well, so if we look at page 3694 and following we can see a whole bunch of invoices which were just recreations, half a dozen?---Yes, replacements, yes.

Replacements. And you'll see that what they suggest is that you were invoicing for quote, "IT consulting and electrotechnology advice," unquote, do you see that?---Yes.

10 Now that's a strange way to describe the political advice you were giving, don't you agree?---Yes, that's a mistake.

What do you mean it's a mistake?---It is clearly a mistake.

Somebody had to type it in, it's not a slip of the hand, is it?---No, it's not typed in, it's a template, it's simply in there when the invoice is brought up, I've clearly changed the ah, entered the dates and the amounts um, the total rather. I haven't changed the description which is a mistake.

20 It looks like a completely false invoice doesn't it?---No, that's, that's - - -

Oh, so are you saying you did provide Eightbyfive with IT consulting are you?---No, I quite clearly said that was a mistake.

All right. That part is false, that line is false, is that right?---It's a mistake.

Now tell me whoever, whoever, name an entity, to whom Webbbson ever providing IT consulting and electrotechnology advice?---Ah, none.

30 Right. So when you say it's a template it's a bit of a dud template because it had never been used, is that right?---Yes, it was the original intent but it wasn't ah, used in that manner, no.

Well, I mean, can I just ask you we've heard about your computer woes, are you in a position to provide IT consulting?---IT consulting, no.

And you'll see there electrotechnology advice, do you see that?---Yes.

40 Now as I understand it you left your apprenticeship as an electrician without qualifying?---Without receiving full qualifications, I left ah, with a craftsman's qualification.

All right. So you were not an electrician by qualification?---Not a fully licensed electrician, no.

And electro technology isn't just ordinary electrics, it's really highly sophisticated, isn't that right?---No, electronic, electro technology systems engineer is the TAFE description of an electrician and that's what's on the qualification when you complete it.

Well, it's still beyond your qualifications?---Yes.

So you can provide either of those things, IT consulting or electrotechnology advice, correct?---I can provide limited electrotechnology advice.

Well, it doesn't say limited electrotechnology advice does it?---No.

10 So should we look at this and see the invoices rendered for services which you could never provide, correct?---In, on, on my own, no.

Right. The other fellow who was involved in Webbbson, who was it?
---Christopher Dobson.

And what was his background?---Ah, he's an um, IT is his background.

Right. And where is he?---He's in the United Kingdom.

20 Right. So it wasn't as though Mr Dobson was going to be providing IT consulting around Wyong was it?---When the company was initially set up an invoice was created, yes.

And is he an electrician?---No.

So he couldn't provide any electro technology advice, correct?---Yes.

So nobody at Webbbson could provide electro technology advice, correct?
---None of the co-founders, either of the co-founders couldn't know.

30 Well what about the staff, how many people did you have on staff?---There were no staff.

Right, okay. So nobody at Webbbson Electro Technology experts could provide electro technology advice, correct?---Not without sourcing it elsewhere, no.

Right. So have you ever sourced electro technology expertise for elsewhere?---For the purposes of the company Webbbson, no.

40 So that, even that whole idea of Webbbson Electro Technology experts the very title that's just a false representation isn't it?---No, that was the original intention of the company.

But the point is that nobody at Webbbson had that expertise, correct?
---None of the co-founders, no.

Nobody at Webbbson had that expertise, correct?---Contacts with the company and we would have relied on them to use it.

All right. And just name those contacts?---Glen, Glen Hawkins, Scott Lang, trades people that are full qualified.

And they give electro technology advice do they?---They could to people they went to high school and were great friends with, yes.

10 Right, okay. So do they have other jobs?---Yes.

And so what would free them to come and do this for Webbbson?---They do it in their spare hours or they would have eventually been bought into the company that was the original intent to grow the company.

It's all rubbish isn't it, Mr Webber?---What's rubbish, Mr Watson?

This business?---This business?

20 Webbbson Electro Technology Experts itself is just a sham isn't it?---No, not at all, Mr Watson.

And the idea that there's an invoice there that was just a sham invoice to try and justify payments being made to you by Mr Koelma, correct?---No. It was produced specifically for the purposes of lodging tax returns and legitimately paying tax on he work that I'd done for Mr Koelma.

30 One of the advantages of working with a team I found is that they show you things it gives you a bit of a shock from time to time. One of the members of our team has got your diary from 2010. I'll show it to you. And, and you'll see that you're pretty carefully putting in when you've got an appointment here a work commitment there, very detailed. Including taking your father to a place, attending the surf life saving club nippers events, the days you worked at an electorate office, that sort of thing. Do you see all of that?---There are some things in here and I've just happen to open it up on August at the time when I was working for Mike Gallacher. Um, weren't you suggesting that I finished the ATS work in February earlier in these proceedings?

40 All right. Well you've trumped me there. But let's just press on because - - -?---Okay.

THE COMMISSIONER: Mr Webber, I really, I really would advise you just to answer the question. You start volunteering information we don't know where it's going to go. So can we just stick to the question?---Yes, Madame Commissioner.

Thank you.

MR WATSON: What I'd like you to do is turn up now any record in there just one please, just find one any record of you meeting with Tim Koelma? ---I suspect there isn't any and giving your volunteering of it I suspect there isn't. You've gone through it forensically I haven't. This is the first I've seen it since you've taken it from me.

10 See I've been questioning you since it was passed to me. I've had no more than an opportunity to open it up and glance at it. I'm giving you an opportunity now, Mr Webber. Show us any record, there could well be dozens I doubt it but dozens?---There is many events that are not in here, this is a guide this isn't - - -

No, you must have misunderstood me, I'm not asking you what's not in there. For example you don't have Yom Kippur or Easter Sunday or whatever. What I want to do - - -?---What?

20 - - - is just find out, get in there, get from it any meeting you had with Tim Koelma?---Appears to be one on 18th, Tuesday, 18 May storage shed sorting with Tim - - -

Read it out to us, sorry? Tuesday, the 18 May 2010?---I was - - -

Read out the entry?---I was, storage shed sorting with Tim.

Right, okay. Does that sound like rendering political advice on important issues?---Ah - - -

30 - - - or does it sound like you're sorting out a storage shed?---Well that's what the description says.

Well so did you make a false entry? It was actually about high level political work?---Before or after the shed more than likely, yes.

40 Okay, rightio there we have it. Even though you've made an entry about sorting out a storage shed that's a meeting on political matters with Tim Koelma, okay. What's the next one?---Well these are, these entries are prior to meetings been put in and I've already said meetings with Mr Koelma were not pre-planned so therefore it's not a surprise to me that I'm not finding any in here.

Yes. You know, Mr Webber - - -?---I mean the whole month of December is blank.

Right, okay. Mr Webber, what I'm suggesting is that you're just lying and the whole arrangement with Koelma was itself a sham under which you would receive a payment which would free you for door knocking?---No.

Correct?---No, Mr Watson.

However door knocking was very important to you?---Yes.

And that was a critical part of your campaign?---Yes.

And I'll tender now if I may, I'll try and find it in the meanwhile but I've got extracts from Mr Webber's compulsory examination. I'll tender that now if I may, Commissioner.

10

THE COMMISSIONER: Exhibit S92.

#EXHIBIT S92 - EXTRACTS FROM COMPULSORY EXAMINATIONS CONDUCTED WITH DARREN WEBBER DATED 28 JUNE 2013 (PAGES 211, 216-218, 220, 229-230, 233, 240) AND 11 FEBRUARY 2014 (PAGES 763-764, 767-768, 770-771, 773-774, 776-777)

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MR WATSON: These ones can be passed around if they like.
Now - - -

THE COMMISSIONER: I'll vary the suppression order that previously applied to the transcript of 28 June 2013 from pages 211 and 240 inclusive and transcript of 11 February 2014 from page 763 to page 777 inclusive.

30

THE SUPPRESSION ORDER THAT PREVIOUSLY APPLIED TO THE TRANSCRIPT OF 28 JUNE 2013 FROM PAGES 211 AND 240 INCLUSIVE AND TRANSCRIPT OF 11 FEBRUARY 2014 FROM PAGE 763 TO PAGE 777 INCLUSIVE IS VARIED

MR WATSON: I'm not sure whether I'm required to tender it I'll do it if my learned friend wants but the submission I'll make about the 2010 diary is that on 18 May it had a reference to sorting a storage shed with somebody named Tim and apart from that there's no mention of any meeting with Tim Koelma or any advice to Tim Koelma.

40

MR FERNAN: I ask that it be tendered.

MR WATSON: I'll tender it.

THE COMMISSIONER: Exhibit S93.

**#EXHIBIT S93 - DARREN WEBBER'S 2010 DIARY-ENTRY
TITLED "STORAGE SHED SORTING WITH TIM" DATED 18
MAY 2010 REFERRED TO**

MR WATSON: (not transcribable 11.07.51)

THE COMMISSIONER: Mr Webber, can I clarify something, you said that
you produced these invoices that have been shown to you as in effect
10 replacement invoices for the purposes of your tax return, is that right?
---Yes.

And you said that you were using a template which was obviously a
template that was set up on your computer?---Yes.

And so for each of the invoices that you re-produced you had to type in a
date and an amount?---That's correct.

Well given that you were supplying these invoices for taxation return
20 purposes what was so difficult about deleting the reference to IT and electro
technology advice and substituting public relations and Government
relations advice?---I'm not sure if it was, if the text box was editable but I'm
assuming in hindsight it's simply an oversight, it's a mistake.

But it was something that you did on four or five occasions each time you
produced a replacement invoice?---Well I think these have all been done as
a bulk, all sent at once I think.

Well I know but you had to, you had to vary the date on each - - -?---At the
30 top.

- - - of the invoices but you didn't do anything about the, the nature of the
advice that was being provided?---No, I didn't.

Well but you said you were supplying these for taxation return purposes
wouldn't it have been important to actually reflect the nature of the income
that you were earning at that time?---Yes, yes. As I've said it is, it's
obviously a mistake.

Well as I said it's a mistake that's been made five times not once?---Five
40 individual times at once, yes, or six.

MR WATSON: Oh well more than that actually because if you need to
have it shown to you you had actually issued an invoice with that same
wrong item in it way back at the time the time of the first invoice. You
know that don't you?---Ah - - -

Well, if you need to see it I'll have you shown now?---There's one in here,
yes. There's one in here with - - -

Well it's in exhibit S9 at page 2545. I'll have it shown to you. Exhibit S9, 2545. And you see, it's a pretty critical difference really that you're sending along an invoice for your recent services and when you turn over to page 2546 you'll see the letterhead's completely different?---Yes.

So you had to change the letterhead, didn't you?---Yes.

And you had to change the date didn't you?---Yes.

10

Did you have to change the ABN? Have a look and compare the two?---Ah, I don't believe so. It should have been, it should have been the same.

I'll just have you shown S13 again. If you open up page, S13. Keep them both open but open up S13 at page 3694?---No, they're both the same.

All right. But you had to change the letterhead really quite markedly didn't you?---Well, yes.

20

And then what you had to do also was to, if you look at the foot of the page you've changed it quite markedly haven't you?---In terms of layout, yes.

Well not just in terms of layout. You've - - -?---Well the content's the same.

Well no, you've got different sentences on page 2546 as opposed to 3694. You've had to go about consciously changing the format haven't you?---The layout, yes.

30

Well look at that sentence, "Thank you for your business. Our contact and banking details are?"---I think that's the only - - -

And you've taken all that out?---I think that's the only content that's different, yes.

Yeah, all right. Well, what I'm pointing out is that you had to go to quite a bit of trouble to change all of this, is that right?---Reasonable, yes.

40

And then you've made this blunder of just invoicing for entirely irrelevant services, correct?---Yes, in mistake, yes.

Services you never provided?---Not in that nature, no.

And, and services that at the time nobody at Webbbson had the skills or experience to provide?---Not directly, no.

Well, yes. And so you had to go to all that trouble and you didn't pick up that you were sending out an invoice that was so inappropriately worded?---

No, my presence of mind at the time was concentrating on the amounts and the, and the dates.

Well no, it wasn't. You had to change the letterhead, change the description of the business, change the format, didn't you?---Yes. But my, my concentration at the time was, and is still the dates and the amounts.

All right. Okay.

10 THE COMMISSIONER: Can I just clarify this invoice that we're looking at on the screen is that, is that an invoice that was presented in those terms or is this one of the, the copy invoices that you, that you produced?---I believe, I believe that's an original.

So that's an original invoice?---Or - - -

They were the invoices that you were giving to - - -?---Sorry.

- - - Mr Koelma?---I believe it's a scanned image of the original hardcopy.

20

All right. But they were the invoices you were giving to Mr Koelma?---Ah, that was the first at - - -

Right?---Yes.

With, with your banking details at the bottom of the page?---The Webbbson banking details, yes.

So - - -?---The, for the - - -

30

So Mr Koelma could have just electronically transferred the money into that bank account?---Yes, which, which he did later on.

MR WATSON: But for convenience he went to his own bank account and withdrew lumps of cash at Erina and for convenience you left where you were in Tuggerah and went to Erina to collect the cash, and for convenience you then got in a car and went back to Tuggerah to do the banking. Is that what you're telling us?---If that was the layout of the day, yes.

40 Yeah?---For one payment, yes.

Good oh?---The rest of the payments were done by electronic funds transfer.

That's fine. You, these people who were paying the money, you called them your friends didn't you?---Ah, Mr Koelma referred to them as his friends, yes. And that's the terminology I used.

And you picked up that terminology?---Yes.

Why?---That's what he referred to them as.

Well have a look at exhibit S9 for me if you wouldn't mind. Page 2575.
2575?---Yes.

Now, you would have seen this referred to in evidence?---Yes.

With a reference to "our friends"?---Yes.

10

Why, why is your payment dependent upon somebody else, some third party paying? Wasn't your contract with Koelma?---It certainly was and Mr - - -

Well then why are you asking "anything from our friends," as though your payment is contingent upon a payment by a third party? How do you explain that?---Because it was. Mr Koelma had explained that he was reliant on his clients, plural, paying him to be able to pay me. Ah, he just didn't have a readily amount of cash sitting in his account. Ah, that's something that he was very upfront with and we had to deal with over the
20 course of the arrangement.

Why is that? That doesn't sound right does it?---Oh - - -

It's unfair to you if you're providing a valuable service for money?---I, I, it wasn't the best scenario but it's something that I agreed to.

And you told us before you didn't know who the clients were?---No.

30

Well would he, in those circumstances even though that your payment was contingent upon them did you not think to ask who they were?---Well, no.

Could I just ask you something – you can close that volume up if you wouldn't mind. Just the donations and fundraising and spending at Wyong – virtually no money was raised by you in Wyong, isn't that right?---Ah, I think \$11,000 was raised by some in Wyong directly.

Right. Okay. Well, \$11,000 in the scheme of things, that's hopeless isn't it?---Ah, for a seat that had always been held by Labor I'd say it's
40 extraordinary.

And hundreds of thousands of dollars was spent on the campaign in Wyong?---Yes.

And can you explain that?---Ah, yes. The um, by raising the amount for the key seats package, the Liberal Party in turn as key seat spent on our behalf during the expenditure cap and also our donor conference at Davidson spent on our behalf. Wyong Branch made a donation and Liberal Party directly.

Well okay, so I didn't really understand that. You'll have to take it through me, to me step by step because we're coming back in August you see and I want to hear your account. Tell us again how you explain the difference between the \$11,000 raised locally and the hundreds of thousands of dollars spent?---So the \$11,000 raised by the campaign in it's own right together with moneys raised by the Davidson account, Davidson Conference and the Terrigal Conference went to the Liberal Party to pay for the key seats package for Wyong. The Liberal Party in return, as an agreement for having raised that threshold then returned expenditure of some 100-odd thousand
10 dollars directly in the Wyong campaign. Further to that there was Davidson's spending directly in our Conference.

What is Davidson?---It's the State Electorate of Davidson.

And why was the State Electorate of Davidson spending money on you rather than the State Seat of Davidson?---Ah, state seats in the Liberal Party that have a safe margin, or perceived safe margin often foster key marginal seats. In the case of Davidson it fostered Wyong and Swansea.

20 All right. So who was it at Davidson with whom you dealt on this issue?---Ah, I didn't deal specifically with it but I was certainly in contact with the then, and current Member of Parliament for Davidson, Mr Jonathan O'Dea.

Who?---Mr Jonathan O'Dea.

And when you were in contact with Jonathan O'Dea on this issue what did he say to you relevant to this funding matter?---That our campaign teams were working together. More often than not we were discussing door
30 knocking teams coming up of a weekend rather than finances.

No, I'm talking about money?---Well, no. At, that, exclusively that our campaign teams would be dealing with it.

Well, all right. So did Mr O'Dea speak to you anything about providing you with money?---He gave me an undertaking that the Conference would be.

Well, so he, he gave you an undertaking that the Conference, that's the Davidson Conference?---Yes.
40

How much?---Ah, figures weren't actually given.

Well how much did Davidson provide?---I'm actually not aware.

Well in broad terms was it more or less than \$10,000?---It was probably around that. It may have been more.

And the, why was Terrigal providing for you?---It was the sole seat on the Central Coast that had a sitting Coalition Member.

No, that's, that's a fact. But I want to know why it was providing for you in funding?---That is why. To have support on the Central Coast and, and be all part of the same team it was in the Terrigal Conference's interest to have surrounding seats of the same political persuasion. As a reasonably safe electorate similar to the Davidson scenario they were prepared voluntarily to assist adjoining campaign seats.

10

And, and tell me how much did Terrigal provide?---I'm not sure of specifics.

Well again was it more or less than \$10,000?---That I, I'm not aware of.

Well how much did the State Liberal Party provide?---Ah, as part of the key seats package I think the exact figure was \$95,000 but they, they would have gone over that.

20

Right, now, remember you had a campaign manager, Karen McNamara?---Yes.

What did you tell her about where the money was coming from?---Which moneys?

The money to fund the campaign?---Ah, well, she'd tell me what was coming from the treasurer internally - - - - -

30

No, what did you tell her?--- - - - um, and I, I told her very little, I told her the conversation that was brought up here some days ago was about after the fact where the moneys had come for her speech preparation.

No, this was at the time - Karen McNamara has given sworn testimony in this room, the same seat as you. She said that she had a conversation during the campaign and during the campaign she asked where the money was coming from and you, Mr Webber, told her that it was coming from fundraisers being held in Sydney. Now was her evidence accurate?---Ah, yes.

40

So you told her that the money was coming from fundraisers being held in Sydney?---Yes.

And who was organising these fundraisers in Sydney?---Ah, Davidson would have done some, Davidson Conference would have done some in its own right.

No, no, don't, don't reconstruct, we want facts?---Oh.

Who organised the fundraisers which affected Wyong, who organised them?
---Whoever was campaign manager.

No, names please?---Well, I don't know who was organising it for the Davidson Conference and in terms of fundraisers that Chris Hartcher went to, whoever was organising his fundraisers.

Did you go to these fundraisers?---No, I went to one or two of Davidson's.

10 Right. And so you say that the seat of Davidson was organising fundraisers for the Central Coast do you?---For the seat of Wyong and the seat of Swansea, yes.

All right. So - and who was the person you spoke to at Davidson about this?
---Ah, I said that I'd had an undertaking from the Member for Davidson, Mr Jonathan O'Dea.

20 So Jonathan O'Dea told you that he was organising fundraisers for the seat of Wyong - - -?---No.

- - - through the Davidson SEC?---The Davidson SEC was organising fundraisers to go to the Wyong SEC.

All right. Well, who was - you must have met the person when you went to the meetings and thanked them for their money?---I - - -

30 Who was the person who you thanked?---I met the whole team and I thanked the whole team and I singled out in my inaugural speech um, Jose Bonanno who was the doorknocking um, facilitator and I assume he probably had something to do with the fundraising as well but I'm not certain.

How many of these occasions were there where there fundraising occasions for your seat being held in Sydney?---I'm not aware.

Well, you told, however, Karen McNamara that was where the money was coming from?---I told Karen McNamara of two occasions where I knew there was going to a fundraiser in Sydney.

40 And how much was raised through the fundraisers in Sydney?---I'm not aware.

Oh, come on, you must have a rough idea, this was your campaign, Mr Webber?---No, I don't.

No idea, so it could have been what, \$500 or \$5,000 or \$10,000?---Well, I don't know so it could have been anything.

It could have been anything, it could have been \$220 million for example?
---If I don't know, Mr Watson, I can't give you an indication of what the figure is.

Yeah. You don't know because you're making this up, isn't that right?
---Making what up, that there was fundraisers held in Sydney.

Your evidence, your evidence?---Absolutely not.

10 All right. Well, have a look at this. Remember you told us earlier about how Mr Koelma, have a look at this. Remember you told us about Mr Koelma was providing you with - sorry, I get it all wrong. Remember you were supposedly providing Mr Koelma with press releases?---Yes.

Can you explain these documents then?---These all appear to be documents that Tim sent me in his capacity as a volunteer in Chris Hartcher's office.

Well, he's sending you press releases?---In this instance he has, yes.

20 Yeah, well, not this instance, these are three aren't they?---Ah - - -

Perhaps its not three but it's three instances of communication on this subject?---Yes.

He was sending you press releases by the looks of it, Mr Webber, or at least we have hard evidence of that?---Yeah, in - - -

Don't you agree?---In his capacity - - -

30 And what we don't have is any hard evidence of you sending anything to him?---Because I didn't email them to him, I've said that.

Thank you. I tender those documents, Commissioner.

THE COMMISSIONER: Yes, Exhibit S94.

#EXHIBIT S94 - MEDIA RELEASES FORWARDED TO DARREN WEBBER BY TIMOTHY KOELMA (EMAILS DATED 13 OCTOBER 2010, 1 DECEMBER 2010 AND 24 FEBRUARY 2010)
40

MR WATSON: Thank you. Thanks, Mr Webber.

THE COMMISSIONER: Mr Webber, I'm just not sure of your evidence about the Davidson fundraising. You said that they were sponsoring Wyong and what other seat?---Swansea which is immediately north to the Wyong electorate, it's a bordering electorate.

Just Wyong and Swansea?---Yes, so - - -

Not Terrigal?---I wouldn't have thought so, no.

And basically as I understand it if Wyong and Swansea together raised something like 35,000 then they got a further amount that was kicked in by the, by the State, is that right?---I - in the case of Wyong it is because we were a key seat, I don't think - my recollection is I don't think Swansea was
10 a key seat so they, they weren't part of that arrangement.

Well, did - - -?---I, I could be wrong though.

Does that mean that Wyong got to \$35,000 in their fundraising?--- Yes.

But you, you could only account for 11,000 of that?---Done by us and then Davidson and Terrigal's contributions put us up to \$35,000.

Sorry, Davidson and - - -?---And Terrigal Conference have assisted us to get
20 to the threshold.

Oh, so Terrigal assisted you as well?---Yes.

Yes. Now who wants to ask Mr Webber - yes, Mr Naylor.

MR NAYLOR: Thank you, Commissioner.

Mr Webber, my name is Naylor, I appear for Tim Koelma. Just a few questions, sir. So your evidence so far is that the arrangement that you had
30 with Mr Koelma was for an initial period of six months?---Initially, yes.

Right. And that commenced, did it not, in May 2010 when you issued the first invoice?---That's correct.

And you did not take up an option to extend the, the arrangement after six months, is that, is that what you're saying?---That's correct.

All right. Sir, I need to suggest to you that in fact the arrangement went on for about nine months, do you agree with that?---Ah, no, but if Mr Koelma
40 is able to provide the evidence that's what I've been reliant on so - - -

Well, I'm interested in your recollection, sir?---My recollection is six months.

All right.

THE COMMISSIONER: When you say the arrangement, Mr Naylor, are you suggesting that there were payments for nine months?

MR NAYLOR: The provision of services, the provision of services, Commissioner.

THE COMMISSIONER: And payments for nine months?

MR NAYLOR: Well, when I talk about the arrangement, Commissioner, I talk about the provision of services by this witness to Eightbyfive.

10 THE COMMISSIONER: That were actually provided.

MR NAYLOR: Yes.

THE COMMISSIONER: Thank you.

MR NAYLOR: Yes. Sir, your evidence so far and I, I, I will happily stand corrected if I've noted down incorrectly what you've said but I think in answer to a question from either Counsel Assisting or the Commissioner you said that the arrangement continued up until November or December,
20 does that sound right?---Yes.

All right. And if the arrangement then commenced in May six months after that would be October would it not?---That's correct.

All right. So if it continued up until November or December 2010 it went on for a bit longer than six months did it not?---Potentially, yes.

Well - - -?---This is the problem I've had and I've been reliant on your client to be able to confirm for me, my recollection is six months but clearly
30 the payments went later because he was waiting for payments which has clouded obviously recollections.

November is seven months after May is it not?---Yes.

And December is eight months after May?---Yes.

All right. So if as you suggest the arrangement continued up to November or December 2010 the arrangement in fact went on for seven or eight months, that's not - that's correct is it not?---It potentially did, yes, sir.
40

And can I suggest to you, sir, that the - at least one and perhaps two invoices, the final invoice or invoices were issued in early 2011, do you agree with that?---No.

Well, if, if the arrangement continued, sir, up until December 2010 as you've suggested and you had issued an invoice after the work had been done the invoice could have been issued in early 2011 could it not?---Oh, the - sorry, okay, yes, the invoice would have been, yes.

Just one other point to clarify, sir, in answer to a question I think from Counsel Assisting regarding the replacement invoices and you were shown those Counsel Assisting - - -?---Yes.

- - - your answer was that they were all sent at once, that's my note of what you said?---That's my recollection, yes.

10 Well, can I suggest to you, sir, in fact you handed over the bundle of invoices to Mr Koelma physically at a meeting that you had with him?
---That's quite likely as well, yes.

All right. And, and that followed an earlier meeting did it not in mid to late 2011 when Mr Koelma came to see you to say that he needed replacement invoices because his copies had been destroyed?---Yes. So he volunteered to me that he no longer had his because of the garage flood.

MR NAYLOR: Thank you, Commissioner.

20 THE COMMISSIONER: Anyone else want to ask Mr Webber any questions? No. Yes, Mr Fernan.

MR FERNAN: Can I just first take up the point that Mr Naylor just raised with you concerning the invoices from or that were issued to Eightbyfive and Tim Koelma, you recall, sir, at some stage you ceased working for Eightbyfive?---Yes.

30 Do you recall approximately when that was?---My recollection was October to November 2010.

And what was the reason that you ceased to work at that time?---The Liberal Party called us into a meeting and were advised that the seat of Wyong was actually winnable and that I basically needed to be full-time campaigning and doing everything we could to win it prior to that it was a case of I didn't expect Wyong to fall it had never before.

And did you undertake any other paid employment after you ceased working for Eightbyfive?---No.

40 And what was the level of campaigning that you were doing up until that time, up until you ceased working for Eightbyfive?---Heavily door knocking during weekends and obviously going to community events predominately of a night time, on Mr Hartcher's advice we initially door knocked of an evening as well on weekdays but came to find every quickly that particularly single mothers with families trying to cook dinner don't want to be door knocked by a politician let alone an aspiring one so we ceased weekday door knocking.

So does that mean that most of the campaign was in fact done on the weekends up until that time?---Up until the, um, after Australia Day 2011, yes.

Well what happened from Australia Day 2011, sir?---The campaign well into full swing seven days a week.

You were asked questions concerning the company Webbbson Pty Limited?---Yes.

10

Sir, that was a company I think that was created or at least registered on 11 July 2006. Do you recall that?---That's correct.

And that was you said created with your friend Mr Dobson, is that correct? ---Yes.

20

What was the, as at 11 July 2006 what was the intention behind yourself and Mr Dobson for the creation of Webbbson predominately?---His IT skills which he'd finished a university qualification in, and at that stage my continuing electrical qualifications being training continuing, the original intention was to combine those services.

So as at 2006 your electrician training was continuing a that time?---Yes.

And when did the training cease?---2008.

30

And you said that I think Webbbson Pty Limited never traded. Why was that?---Mr Dobson father had a terminal illness so he travelled to the United Kingdom to pass away and Mr Dobson went with him.

Do you recall when that was?---I believe it was 2009/2010 I could be wrong there.

And you gave some evidence, sir, about the template that was created for the, for the invoices. When was that template created, first created do you recall?---When the company was first started and the business cards and letterheads were actually printed.

40

And do you recall when that was? Was that in 2006 or - - -?---2006 or early 2007.

And did that template, sir, include the description of the work that was expected to be provided by the company at that time?---Yes, yes.

And, and was that description, sir, the same description that appears in the invoices that you've been taken to today?---Yes.

Do you recall, sir, when it was that you changed the template on the Webbbson invoice?---I believe, to the best of my recollection it was some time after Mr Dobson made it quite clear that he received full-time employment working for the London Stock Exchange in IT administration and that he wouldn't be returning in the short to medium term um, so therefore obviously IT was taken out um, 'cause that was his component and it was my intention obviously to finish electrical qualifications.

10 Can you recall when that was approximately?---2010, over the course of 2010 possibly.

Do, do you recall whether the changes were made at the same time or before the time that you provided um, the further copies of the invoices to Mr Koelma?---After the original ones were sent.

No. THE changes that you made to remove the reference to IT - - -?---Oh.

20 - - - from your letterhead do you recall whether those changes were made before or at the time of you prepared the replacement invoices for Mr Koelma?---Before the replacement ones were produced.

So the changes that were made weren't made at the same time as you prepared the replacement invoices for Mr Koelma?---Oh no, no.

Do you recall how long before those changes were made?---Some time, of months.

30 Thank you. You were asked some questions, sir, concerning your diary of 2010 and I think in, sir, in evidence you, you say that there were many other meetings that had not been included in that diary. Can you give the Commissioner some evidence about what the sort of meetings haven't been included in that diary also?---Most, it was certainly intended to be kept um, up, up until midway through the year that that diary would be the full-time diary however when you're out and about and you need your diary on you I transferred over to the Nokia um, calendar system so it was certainly used as a, as a guide um, and a personal diary but it certainly didn't contain my day to day activities because if it did the days would be full and most of those are not.

40 So many of meetings on a daily basis haven't been recorded in that diary, is that right?---And I think the entire month of December is empty in it.

And was that a particular busy month?---Yes.

In relation to your electoral campaign?---Absolutely.

THE COMMISSIONER: I thought you were indicating that the reason that the later months in the diary are blank because you actually started keeping appointments in the mobile phone?---Yes.

So it's not that you just didn't record regular meetings it's in fact that you were using a different system at that time?---I was using the different system over the course of the entire year um, the - - -

10 But you stopped using the diary at all at some point?---Yes.

Yes.

MR FERNAN: Mr Webber, you were asked some questions, sir, about payments of cash that were made to you at Erina and it was suggested to you, sir, do you recall it that you went, drove to Erina specifically for the purposes of collecting cash from Mr Koelma. Do you remember that, sir? ---Yes.

20 Could Mr Webber please be given Exhibit S4. Can I ask you to open that at page 1055?---Yes.

Sir, I think you've seen these text messages?---Yes.

These were taken from your, relating to SMS's between yourself and Mr Koelma?---Yes.

30 And do you see, sir, that on the 5 July 2010 Mr Koelma has sent you a message stating good news from our friends, are you coming in today? ---Yes.

And you've said, "In a little before 12.00." Do you recall why it was that you were going into Erina that day?---Quite often I'd be volunteering in Mr Hartcher's office um, or there was a high turnover of Shadow Ministers coming to Mr Hartcher um, so I'd be there to meet them as well.

I take it, sir, that that wasn't your decision to come in a little before 12.00. Was it reference to the text messages that you received from Mr Koelma? ---No.

40 Sorry, you can close that now, Mr Webber. Could Mr Webber please be given Exhibit S12. Can I ask Mr Webber to open it at page 3581. 3581, sir?---3581?

Yes?---I, I only go to 3447.

It must be the next file. So according to my reference that number should be in S12. Sorry, it's S13.

MR WATSON: I make that mistake every time.

MR FERNAN: Last time I rely on your exhibit list.

3581, sir?---Yes.

Do you see at the final entry on that page on 18 August there's a, there's an entry for a part payment from the Parliament of New South Wales?---Yes.

10 What was that payment for or salary for, sir?---That was for a fortnight's work with the Upper House Member, Mike Gallacher, in Parliament House.

And that was the fortnight preceding that receipt of that payment. Is that right?---Yes.

Thank you. Sir, you were asked about the preparation of your tax returns for the 2011 financial year. Do you recall, sir, when it was that you first approached your accountant for the purposes of preparing your tax returns for 2011, that is?---For 2011 ah, I believe it was April of, of the year.

20

April of 2011?---Yes.

And so I think at that stage you had changed the, changed the accountant who was preparing your tax return. Is that correct?---Yes.

And, and who did you change to, sir?---A local accountant in Tuggerah um, Bishop Collins I think their name is.

30

Is that the company Bishop Collins Pty Limited- - -?---That's- - -

- - -Chartered Accountants?---That's correct.

And was it Mr David McClelland, director of that company who you approached?---Yes.

40

And can you recall why it was, so the reason for the delay between April 2011 and 2014 before the tax return was prepared, was it just the reasons you've given or were there other reasons?---The um, basically waiting for Mr Koelma to come back so I'd volunteered him my replacement invoices and I was waiting for him to confirm um, whether or not there was, you know, the dates were right and there was more um, and I didn't appreciate that I could make a declaration um, in the absence of what I thought would have to be all the original documents and declaration's what we originally, eventually lodged.

THE COMMISSIONER: And your accountant in the three years between April 2011 and April 2104 didn't give you that advice?---Well, I wasn't um,

in the three years Mr McClelland I didn't see, it was um, his junior director who was handling it um - - -

Well, regardless of who you saw, no one gave you that advice?---Ah, not to my recollection but it was certainly Mr ah, McClelland that did, so- - -

MR FERNAN: And when did Mr McClelland give you that advice?---Ah, earlier this year.

10 THE COMMISSIONER: And you said you volunteered your replacement invoices. Did you do that in April 2011 as well, to Mr Koelma?---Ah, that is potentially the – somewhere around that time frame but I can't be definitive, yes.

So, so he, so in the three years between volunteering them and preparing the return, Mr Koelma never confirmed any of those invoices with you?---Not yet, no.

20 I just want to be clear on something else though. You said that the template of the invoice was set up when, when you decided to establish the business and that was 2006?---6/2007, yes.

But, but since 2006 or 2007 the company has never provided the kind of business that was anticipated it would provide, and Mr Dobson, was it, left in 2010?---It was 9 I think, yes.

30 Or 2009?---It could have actually been earlier. That's something I can come back to you with. I'll obviously have the specific dates of his father's becoming deceased. I could be – it could be earlier.

Yes, but my point is that having set up the template you didn't, you didn't at any stage ever have to issue that invoice to anyone for that kind of advice? ---No.

40 And when you first entered into the arrangement with Mister Koelma, you entered into it on the basis that he would, he would invoice your company, Webbbson Pty Limited?---Yes, I had the company sitting there so rather than register a new business in my name it made sense to use the company that I had sitting there.

So when you, when you did issue the original invoices to Mr Koelma, did those original invoices reflect Government relations advice?---My recollection is they did um- - -

They did?---My recollection was, but clearly the first one that's been produced did not, but my recollection was that they did.

So the original invoices given to Mr Koelma actually did record the fact that you were providing Government relations advice, but when you came to issue the copy invoices you reverted to the original form of the template?
---That's correct.

But you must have had copies of the original invoices on the computer. I mean if you accessed a template, the template itself must have been changed at some stage to issue the original invoices, wasn't it?---Yes.

10 Well, then does that mean that when you went to issue the copy invoices you changed the template back to what it was before?---No, no, it was only changed once.

Well, help me with this. You said when you provided the original invoice, those invoices reflected the fact that you were providing Government relations advice?---My recollection is that they did, yes.

20 Well, that suggests to me that when you printed those invoices off you had already changed the template to reflect that?---My recollection, yes, yes.

So when, when you went back to issue the copy invoices the template should have reflected Government relations advice?---Oh, okay. Sorry, right, O.K. So the original – so I've – when I've done replacement invoices I've got the template invoice, not the original invoices obviously 'cause I didn't have the original invoices. The template never changed, you change it on an individual case-by-case basis, but the very original, original template designed by the graphic designer didn't change until we took out the IT.

30 So despite the fact that you entered into this arrangement with Mr Koelma in the first place to invoice Webbbson Pty Limited, each and every time you issued an invoice to him on a monthly basis you went back in and manually changed the reference to electrotechnology advice to read Government relations advice. So you did that on each occasion?---Yes, that's, that's my recollection, yes.

40 Why didn't you just change the invoice, change the template, because that, that business was what you were actually doing at that time?---Because it was a publisher document, I was changing the date and the figure and I just customised it for that month's invoice.

Yes. And why didn't you change the template?---I, I can't give an answer, I simply did not.

Go on, Mr Fernan.

MR FERNAN: Is this the case, sir, in relation to the invoices that you changed, is that they were retained on the laptop computer, I think you referred to?---Yes.

And when did that – you said you – that crashed or it ceased to operate?
---The hard drive failed in late 2010/early 2011.

Yes. And did you make any attempts to try and recover documents from that?---Yes, absolutely.

10

And what were those attempts you made?---I think it's (not transcribable) Data Recovery in Melbourne um, and they quoted \$1,000-odd without guarantee of recovery.

Yes?---And at that stage before knowing this shindig was going to start I didn't think it was worth the money without no guarantee of getting the data.

20

The money that you received from Eightbyfive, was any of that spent on any electoral expenditure, sir?---No.

Was it simply spent on your own personal living expenses?---Yes.

And I think, sir, you've obtained, have you not, a copy of your application for registration as a candidate- - -?---Yes.

- - -for the seat of Wyong? And do you recall, sir, when that was submitted by you?---I submitted it on the – filled out the form and submitted it on 7 March for 10 March deadline.

30

And what's the relevance of the 10 March deadline, sir?---Up until that time basically nomination's open for all candidates to apply for that 26 March, 2011 Election.

Yes?---The Electoral Commission then evaluates them all and ensures that they're correct and then officially nominates you as – or endorses you as a candidate for the election in two weeks' time after that.

40

And 10 March, 2011, was that the closing date for nominations?---And an announcement date of who the candidates for Wyong would be.

So are you aware that in this inquiry it's suggested that you have solicited, received and concealed payments from sources in return for the favouring of interests of those responsible for the payments. Have you – has anyone ever asked you, sir, for a favour since you've become a Member of Parliament because of moneys you received from Eightbyfive?---No.

Apart from the services that you provided pursuant to your consultancy agreement with Eightbyfive, has anyone ever asked you for a favour because of the money you received from Eightbyfive?---No.

Have you ever granted a favour, sir, to anyone because of the funds you received from Eightbyfive?---No.

Did you ever, sir, solicit any funds by way of a political donation from anybody in relation to- - -?---No.

10

Commissioner, that was the only questions I had for Mr Webber although there were some four documents I'm asking Counsel Assisting to tender.

MR WATSON: Yes, I'll tender those.

THE COMMISSIONER: Exhibit S94, 95, sorry.

20

**#EXHIBIT S95 - APPLICATION TO STAND FOR ELECTION
(COMPLETED BY DARREN WEBBER), ASIC BUSINESS NAME
SEARCH, EMAIL DATED 9 MAY 2014, LETTER FROM BISHOP
COLLINS (ATTACHING TWO DIARY FILE NOTES)**

THE COMMISSIONER: What's the description of the documents, Mr Fernan?

30

MR FERNAN: Well, there are four documents. The first is an Application for Registration of a Candidate for a State Election - - -

THE COMMISSIONER: Right.

40

MR FERNAN: - - - signed by Mr Webber dated 7 March, 2011. The second document is an ASIC and business name search of the company Webbbson, W-e-b-b-b-s-o-n, Pty Limited. The third document is an email from Greg Copson of Elections New South Wales to Darren Webber of 9 May, 2014 and the fourth document is a letter from Bishop Collins Pty Limited Chartered Accountants dated 2 May, 2011 directed to Mr Cameron Lean, L-e-a-n, of Rogers Lean & Company in relation to Webbbson Pty Limited and Mr Darren Webber which also attaches two diary records of that firm, Commissioner.

MR WATSON: No objection. Well, sorry, I tender them.

THE COMMISSIONER: Yes, they'll be all marked compendiously Exhibit S95.

MR FERNAN: Thank you. That's all, thank you.

THE COMMISSIONER: Anything arising, Mr Watson?

MR WATSON: Yes.

How was the template for your invoice retained, where was it?---Ah, the template, and Mr Dobson kept a copy on his computer and I believe I was able to find one on a USB stick with the original business card and letterhead design.

10 Sorry, Mr Dobson, did he come back from the UK did he?---No.

Did you get access to his computer?---No. I believe - - -

Right. So what's that got to do with it?---I believe he sent, he emailed it to me.

He sent you an email with the template on it?---I believe so, yes.

20 And so you were able to get it and then you were able to fiddle with it and change it around?---Yes.

And, and you didn't change the description of the services?---No.

Thank - - -

THE COMMISSIONER: What happened to the USB stick that you said you had, used to preserve the template?---I have no idea.

30 MR WATSON: Well, well - - -

THE COMMISSIONER: I thought you said a moment ago that you had preserved a copy of the template invoice with business cards on a USB stick?---So the original graphic design um, of the letterhead, business cards and I think website banner were kept on a USB stick for, for some time and then when Webbbson was no longer to be used it was obviously deleted.

What, you deleted the USB stick?---The files on the USB stick.

40 When did you do that?---Ah, it would have been some time after being elected when it was clear that I wouldn't be using the company again.

So after March 2011?---Yeah.

MR WATSON: May that have included, according to you, the original invoices?---Not the USB stick, no.

All right?---It would have been a USB stick that the graphic designer gave us when they, as part of the production.

Yes, thank you, that's - - -

THE COMMISSIONER: Yes, thank you, Mr Webber, you can step down, you're excused for present purposes. He's not excused as I understand it entirely, Mr Watson?

MR WATSON: Look, I think he can be actually.

10 THE COMMISSIONER: He can be. All right.

MR WATSON: I'm not saying he won't be called later or again - - -

THE COMMISSIONER: Well, he can be excused, yes.

MR WATSON: Yes.

THE WITNESS EXCUSED

[11.53am]

20

MR WATSON: I'll call Christopher Hartcher.

MR HENSKENS: Commissioner, Mr Hartcher will seek an order under section 38 and he'll take an oath.

THE COMMISSIONER: Yes, thank you. Mr Hartcher, the order under section 38 protects you from the use of your answers against you in civil or criminal proceedings but does not protect you if it should be found that
30 you've given false or misleading evidence to the Commission. You understand that?---Yes.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing
40 produced.

40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY

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

THE COMMISSIONER: Can the witness be sworn, please.

MR WATSON: Are you Christopher Peter Hartcher?---Yes.

Do you know John Caputo?---Yes.

And how do you know John Caputo?---I know him through the Liberal Party.

10

John Caputo has come to us and given sworn testimony that at some stage during the lead up to the 2011 State Election that you rang him and said to him that funding was needed on the Central Coast, do you accept that you did that?---I ah, would change that. I attended a function with him I think in December of 2010 which was to support certain candidates and at that function I mentioned to him that it would be good if we could also have a function to, to support candidates on the Central Coast.

20

Well, to be fair to both you and Mr Caputo there is a second account he's given us but I want to be specific, Mr Hartcher. He says that you rang him and you told him that you needed funding on the Central Coast and as a consequence, Mr Hartcher, he says that he posted three cheques to your office. Do you remember this happening?---I think we need to put this in a proper sequence, Mr Watson.

Do you mind answering my question? Do you remember that happening? ---He - I'll break it up. Did we have a function for the Central Coast?

30

No, no, no?---Yes.

This is nothing to do with a function, Mr Hartcher. Listen carefully and for those who are following it's at transcript pages 2932, 2933 and 2945. Mr Hartcher, this is Mr Caputo's evidence, he said that you rang him. You said to him that you needed funding on the Central Coast. As a consequence he says that he posted three cheques to your office. Do you accept that that evidence is accurate?---I did not receive cheques at the office.

40

Did you ring him and tell him you needed funding on the Central Coast? ---As I said earlier I spoke to him about assisting with funding on the Central Coast. I don't recall a specific telephone conversation.

Do you deny receiving three cheques from Mr Caputo?---I just answered your question, Mr Watson, that I did not receive at the electoral office cheques from Mr Caputo.

THE COMMISSIONER: So sorry, Mr Hartcher, I just want to make sure I've got that emphasis correct. Are you saying you received a cheque somewhere else other than the electorate office - - ?---No, no.

- - - or just didn't ever receive them?---The electoral office may have received the cheques but I never received the cheques.

MR WATSON: All right. Well, in, in specific terms Mr Caputo is saying that the three cheques that he sent were given to him by a man Timothy Trumbull, do you know anything about that?---Yes. I know that ah, having seen the evidence I know that the ah, he spoke about cheques given to him by Timothy Trumbull, that's correct.

10

Right. Okay. Well, at the time Mr Caputo - I'll withdraw that. Mr Hartcher, we have got evidence that someone in your office telephoned the firm of solicitors Hartcher Reid on 16 November, 2011. You know about that evidence don't you?---I've seen the ah, the statement.

I'll show it to you again. Could the witness be shown Exhibit S8. Would you open that up at page 2368, that's 2368?---Yes, I've got that.

20 I was wrong, it wasn't some, somebody making contact from your office, it actually is evidence that 16 November, 2011 at 9.23am you, unless somebody else was using your mobile, Mr Hartcher, you telephoned Hartcher Reid?---Yes, that's what it says.

Well, we have other evidence that at Hartcher Reid itself a file was opened on that date titled "Liberal Party, Central Coast, Miscellaneous." Do you know anything about that?---Well, I've seen the ah, I've seen the exhibit, yes.

30 Well, did you make contact with someone at Hartcher Reid on 16 November, 2011 which led to a file being opened in the name of "Liberal Party Central Coast Miscellaneous", Mr Hartcher?---I don't recall that.

Well, do you recall now why you were contacting the office of Hartcher Reid at 9.23am on 16 November, 2011?---No, I don't recall that.

40 You don't recall that? Well, we have got some evidence that people took notes and they seem to implicate you in a call which led to the opening of the file, "Liberal Party - Central Coast - Miscellaneous," Mr Hartcher. You know that don't you?---I've seen those documents.

Well, are you position to explain away the inference that it was - - -?---You, no Mr Watson, you're going to show those documents please.

I'm sorry, I didn't know you were running this?---Well I'm trying to answer your questions, Mr Watson.

No you're not?---Yes I am.

You just listen very carefully. Are you in a position to explain away an inference arising from evidence that you contacted Hartcher Reid on 16 November, 2011 and as a consequence a file was opened titled, "Liberal Party – Central Coast – Miscellaneous"?---Are you going to show me that file?

10 THE COMMISSIONER: Well whether or not he shows you the document at the moment he's asking you to give evidence according to your knowledge or recollection of events?---I've said, Mr Watson, I don't recall that telephone conversation which you refer to as 16 November, 2011.

MR WATSON: Have a look at page 2383?---Yes, I see that.

This is only a photocopy of course but it's the external cover of a solicitor's file titled, "Liberal Party – Central Coast – Miscellaneous." Do you see that?---Yes I do.

Do you see at page 2384 there's a file note?---Yes.

20 And there's a reference to Chris Hartcher?---Yes, I see that.

And you'll see that there are phone numbers?---Yes.

Somebody else is making some other notes but down the bottom you'll see a file, "Liberal Party – Central Coast"?---Yes.

Handwriting's hard?---Yes.

30 Well, is that what you wanted to see?---Yes, that's what I asked you to produce to me and you refused.

Oh, I've got a feeling that we're open at that page now?---Yes.

Right. And look at page 2381?---Yes.

This again is a random file note which is incidentally produced by Hartcher Reid which refers to, "Chris Hartcher, three bank cheques, Liberal Party, into our account." Do you see that?---I see that.

40 Can you explain away in light of the material which I have shown you an inference that it was you, Mr Hartcher, who on 16 November, 2011 telephoned Hartcher Reid to give instructions that cheques would be deposited into their trust account?---You're referring to 16 November telephone conversation?

Yes?---I don't recall that conversation.

I'm talking about the inference which might be drawn from an accumulation of facts. I want to give you an opportunity, Mr Hartcher. Are you able to explain an inference that it was during a call on 16 November, 2011 that you gave instructions that three bank cheques would be banked - - -?---Well - - -

- - - and which led to the opening of a file, "Liberal Party – Central Coast – Miscellaneous"?---I'm making it clear to you, Mr Watson, I don't recall the ah, telephone conversation therefore I can't except any inference that you may wish to draw from it.

10

That's all right. I think I've done my job, Mr Hartcher. Now, you know that there is evidence that on 17 November, 2011 there was a deposit of three bank cheques at Westpac Banking Corporation in Martin Place, don't you?---Do you wish to show that document to me?

I'm just asking you a question at the moment, Mr Hartcher?---No well, I'd like - - -

20 Unless the rules have changed overnight I think you've got to answer it?--- Well Mr Watson, why do you keep referring to documents and yet not showing me the documents?

30 THE COMMISSIONER: Mr Hartcher, the rules, the rules are Counsel asks the question and at a point in time when it's relevant they'll show you or might not show you a document. But I don't dictate to Counsel the detail of his questioning. There's no requirement on him to show you documents before he asks you a question in relation to those events. Every witness that's come before this inquiry has been dealt with in that fashion. I'm afraid you're just going to have to do your best?---All right. Do you wish to repeat the question, Mr Watson?

MR WATSON: No. I'll ask another one. I've been reminded I should have asked you something else. Go to page 2384 again?---Yes.

You'll see there that there's a reference to ring, and there's a word I can't read, and then it says, "Sandra." Do you know someone named Sandra? ---Well, there was a Sandra who worked in my office in November of 2011 I think it is. Yes.

40 And was that Sandra Calabro?---Yes.

And was she your personal assistant?---No. She was one of the staff there.

She was, what role did she have?---Well, well, she ah, well, let me correct that. She was one of the personal assistants, yes.

Do you recognise that phone number, 9-2-3-0-2-1-1-1?---9-2-3-0-1-1-1. I think that's the Parliament House switch number.

All right. Well, you'll see also that next to that there's in writing, it seems to be "Westpac, 17 November, \$4,000"?---Yes I do.

Well I think I've got to give you the chance again, Mr Hartcher, in light of that additional material. Is there any basis upon which you could explain away an inference that this information regarding the deposit of the cheques came from you or your office?---Well, I've already explained to you, Mr Watson, I don't recall.

10

That's fine. I don't want you to think you've gone home without getting a chance. Now, in that same exhibit S8 would you open it up at page 2360?---Yes. Yes, I see that.

Do you see that that's a deposit slip for the Westpac Bank?---Yes.

And you'll see that it's been deposited into the Hartcher Reid Trust Account?---Yes.

20 And you'll see that it's for \$4,000?---Yes.

And you'll see that there are three bank cheques deposited, at the foot of the page, that's the flipside of the deposit slip?---Yes.

What do you know about that, Mr Hartcher?---Well, what are you actually asking me, Mr Watson?

A question.

30 THE COMMISSIONER: Do you know anything about it, Mr Hartcher?---I see that it's a deposit slip into, I see what it says it is. It's a deposit slip into the Hartcher Reid Trust Account.

MR WATSON: What do you know about it?---Are you asking me did I make the deposit?

No, I'm asking you what do you know about it?---Well, as I said I don't recall the transaction.

40 Well, is it your handwriting?---No, it's not my handwriting.

Do, do you recognise the handwriting?---No I don't recognise the handwriting.

Can you explain how these cheques came to be deposited into Hartcher Reid's trust account?---I've repeatedly told you I don't recall.

Could you have been directing that they deposited, the cheques that is - - -?
--Ah hmm.

- - - into Hartcher Reid's trust account?---Well if I don't recall how would I know whether I directed somebody to do it.

You can't try and stretch your memory just to help us here today, Mr Hartcher?---I, I, Mr Watson, this has been because of the relationship - - -

10 Just answer the question?---No.

Can you try and - - -?---I will - - -

- - - stretch your memory just to try and help us?---I have tried to, I, if you will let me explain. I, in this respect I have definitely tried to stretch my memory because it's been an embarrassment for me involving my own family firm, or my former family firm. But I do not recall it.

20 Well you see, when I say about drawing an inference - - -?---Ah hmm.

- - - remember I said to you that John Caputo had told us that he had sent three cheques? In addition he told us that those cheques had come from Tim Trumbull. Remember I told you about that?---Yes, you did.

Those three bank cheques on that deposit slip, I want you to assume came from Tim Trumbull. Does that help you at all?---No.

30 All right. Well, have a look at page 2361. That's one of the bank cheques?--Yes, I see a bank cheque.

Page 2363. That's the second of the three bank cheques?---Well it's very hard, hard to actually work out the (not transcribable).

I want you to assume that it, they are. There's evidence to support this. And at 2364 – you're the one who wanted to look at the documents?---Well, rightly so.

Yeah?---You're the one asking the questions. We've agreed on that much.

40 Yes?---Ah hmm.

Look at 2364?---Yeah.

That's the third of the three bank cheques?---Ah hmm.

Is this helping you at all, Mr Hartcher?---Well, I have told you repeatedly I don't recall the transaction. I have not seen these bank cheques.

Well have a look at page 2373?---Yes. Hang on, let me find it. 2373. Yes, I see that.

You'll see 17 November there's a deposit, Martin Place, \$4,000 into the trust account of Hartcher Reid?---Ah, well it says deposit, yes, customer number up, up – you're referring to the customer number up the top, Hartcher Reid?

10 Yes?---And the deposit. 17 November, \$4,000, Martin Place. Yes, I see that.

It's starting to look like if you, you know your memory's deficient but if you put together - - -?---No, well I resent that remark.

So sorry, I didn't mean that insultingly I just meant to try and help you? ---Mmm.

20 You said you couldn't recall. We've got so far, we've got Mr Caputo's evidence, we've got evidence from Mr Trumbull about the circumstances in which those cheques were given to Mr Caputo, we've got evidence that they were deposited in Westpac at Martin Place into the account of Hartcher Reid. We've got evidence that on 16 November you telephoned Hartcher Reid. We've got evidence that on that day or the following day entries were made by staff at Hartcher Reid which referred to you by name. Do you see all of that?---Yes, I see that.

30 Is there some reason why the Commission shouldn't find that you were responsible for directing that those cheques be banked into Hartcher Reid?-- -Well that's an inference that you're seeking to submit, that's a matter for the Commission.

I'm giving you an opportunity to explain it away, Mr Hartcher?---Well I have now on at least five occasions told you, Mr Watson, I don't recall the transaction.

All right. Well then let's go on. You know Sebastian Reid he's your nephew?---Yes.

40 He's given sworn testimony and this is page 2781 that you telephoned him, Mr Hartcher - - -?---Well I haven't got page 2781.

No, I'm telling those who are following the transcript page, Mr Hartcher? ---What about me? Aren't the person answering the questions?

THE COMMISSIONER: If Counsel incorrectly summarises the evidence I'm sure Mr Henskens will be quick to point it out?---Right.

MR WATSON: I'm giving an advantage to your legal team you see, Mr Hartcher, fairness that's my middle name. Mr Hartcher, we've got some sworn testimony from Sebastian Reid your own nephew he says that you called him, Mr Hartcher, and you gave him instructions, you gave him instructions to draw a cheque from his trust account for the \$4,000 in favour of a business called Mickey Tech, and he says further that he was instructed by you to address it to Ray Carter and send it to a particular post office box which happens to be your post office box, Mr Hartcher?---No. It's the electorate office post office box.

10

Okay. Well we've got evidence which I won't take you to now but it's registered in your name?---Well naturally I'm the Member.

Okay. But let's focus on the substance, I really want to get down to what Sebastian Reid is saying. Do I need to recite it? It's that you called him - - -?---Well I don't have a copy of it in front of me.

20

- - - you gave him instructions to draw the cheque for the \$4,000 in favour of an organisation called Mickey Tech and to send it to Ray Carter at a particular PO box. Do you say that Mr Sebastian Reid got it wrong? ---Well I don't recall the transaction.

Do you accept that that given he has a recollection of it is probably right? ---I believe Sebastian Reid is a truthful person.

And do you believe his evidence on this issue - - -?---Well I - - -

30

- - - is probably correct?---I believe he's a truthful person. What his evidence is on this issue is I can't comment on as I don't recall the transaction.

Well let me help you. Have a look at that same Exhibit S8 page 2369? ---Would you repeat the page again, please.

2369?---Yes.

40

You'll see here a series of calls between 22 November 2011 and 23 November 2011 calls between your Parliament office and the office of Hartcher Reid Solicitors?---Yes.

Do you know why you were exchanging calls with Hartcher Reid at that time?---No.

Well have a look also at page 2386?---Yes, I see that.

This is a record which Sebastian Reid has told us which was created by him where he was directing a trusted member of staff in accordance with your instructions. Are you in a position to contest any of this, Mr Hartcher?

---Well you just used the words “in accordance of my instructions” the document you referred to me doesn’t say that.

Sorry, we’ve got sworn testimony to this effect, Mr Hartcher, from a person you regard as a fundamentally honest person?---No, a person whom I said is a truthful person, yes.

10 All right. Well truthful person. Just have a look at it. He says that this is an instruction given to him by you, Mr Hartcher?---The document doesn’t say that, Mr Watson.

Come on, Mr Hartcher, listen very carefully I’m sure you’ll be able to follow if you listen. He says sworn testimony, Mr Hartcher, that this is a result of an instruction given to him by you. What do you say to that?---I told you I do not recall the transaction.

Well then why should this Commission not infer that, that it did come from you, Mr Hartcher? Please don’t say I don’t recall that’s not an answer to the question. These are facts and - - -

20 MR HENSKENS: Well I object to that. It is – I object to that. It is an answer to the question.

THE COMMISSIONER: Yes, I know.

MR HENSKENS: My learned friend should not comment on evidence. His role and his duties are to ask questions and not comment on the evidence. Now, Commissioner, he has asked this question now a number of times, the witness has made it clear that he can’t recall.

30 THE COMMISSIONER: I appreciate that, Mr Henskens. The difficulty is that as things presently stand if Counsel Assisting wants to make the submission that this was all at Mr Hartcher’s instructions then there is no explanation that would contradict that submission and that’s the point that Counsel Assisting is, is making at this, at this - - -

MR HENSKENS: Well he shouldn’t be commenting on the evidence it’s not the time for submissions.

40 THE COMMISSIONER: I don’t know, I don’t know that it’s a comment. What he’s, what he’s asking the witness to do is explain what other inference there might be from the combination of circumstances is placed before him that’s all.

MR HENSKENS: No, but he was commenting on the answer and not asking questions.

THE WITNESS: Mmm, he was.

THE COMMISSIONER: All right, go on. I think, I don't think you're going to get anything other than a failure of recollection on this sequence of events, Mr Watson.

MR WATSON: I appreciate that but the circumstances are very serious and I don't want Mr Hartcher to leave thinking he wasn't given the opportunity to explain it away but we'll move on.

10 Now if we look at page 2386 you'll see there's a reference to an organisation to Mickey Tech?---Yes.
As at November 2011 did you know about Mickey Tech?---Well it's given the enormous, I can't actually say when I knew about the – I know now that Mickey Tech is a company associated with Eak who was Ray Carter's partner. As to whether I knew that in November 2011 I really can't recall.

Well how did you find out about Mickey Tech, what were the circumstances?---Well Mr Eak and I can't pronounce with the greatest respect - - -

20 Mr Eak will do, go on?---Yes. With the greatest respect. His, his surname was interested in setting up an IT company and I believe he proceed to establish an IT company but when he did and what the name of that IT company um, was I don't recall when I knew. I found out at some stage in my long relationship with Mr Eak and Mr Carter but to try and pinpoint a date I wouldn't be able to tell you.

All right. Well so if you, if I show you some more, you want to see documents, look at page 2389?---Yes.

30 You'll see here that this is a trust account statement at the firm Hartcher Reid?---Yes.

And you'll see that it records that money was deposited on the 17th - - -?
---Yes.

- - - for IT services?---That's what it says.

And then it says that money was taken out on the 24th?---Yes.

40 Now if we go back to page 2386 you'll see that what Sebastian Reid had said was an instruction given to him by you?---No, no. I have already objected - - -

There' san objection is there --- - - - several times to your phraseology.

Sorry, we, we heard sworn testimony from him take it from me.

THE COMMISSIONER: Just a minute, just a minute. Mr Hartcher, in so far as the document in front of you doesn't refer to you Counsel Assisting is referring to evidence that's been given earlier in the proceedings, so he's putting a proposition based on evidence even though it's not in the document?---Right.

Right. Go on, Mr Watson.

10 THE WITNESS: Well as long as that's clear.

THE COMMISSIONER: Go on, Mr Watson.

THE WITNESS: Because he doesn't make it clear when he asks his questions.

MR WATSON: Having a bit of a dig at me are you?---Oh, Mr Watson, why would I do that?

20 Yeah?---Yeah.

Well you're not the first person to try. Now let's have a look at page 2195. Sorry, must be 2395. No, no, sorry, I'll start again. Have a look at page 2195?---Yes.

You'll see there on 28 November, 2011, \$4,000 in cheques is deposited into the account of Mickey Tech. Do you see that?---Yes.

30 Now, if you look further you'll see that on 1 December, 2011, \$4,000 is withdrawn from Mickey Tech?---Yes.

Now, you would know, would you not, that Ray Carter has given evidence here?---Yes.

And he says that he gave that \$4,000 to you, Mr Hartcher. Did you know he says that?---Yes, I do.

What do you say about that?---That's wrong.

40 What do you mean it's wrong, is it, did you get- - -?---I did not get- - -
- - -3,000 or- - -?---I did not get \$4,000 from Mr Carter.

How much did you get?---No money from Mr Carter.

All right. Well, hold on, let's just go back then. Ray Carter tells us that on your instruction he withdrew that money and gave it to you. What do you say about that, Mr Hartcher?---I have said that is wrong.

When you say wrong, you must mean that it's untrue?---It's incorrect.

You must mean it's a lie?---No, I don't mean it's a lie.

Mr Carter also tells us something else about this, Mr Hartcher?---No. Go on.

He says that you, Mr Hartcher, you asked him to give false evidence on this issue at ICAC?---That is also wrong.

10

That's wrong, is it?---Yes.

How could he get that wrong, did you say something like that?---Well, when and where did he say that, did I say that?

He said it sitting in that same seat that you're sitting in about a week ago, time flies, but that's where he said it?---Mmm.

20

He gave sworn testimony on two occasions, it figures in the transcript at page 4054 and page 4065, Mr Hartcher?---I did not- -

What do you say about it?---I did not ask Mr Carter to give, to give false evidence.

Did you talk to Ray Carter about this evidence of Mickey Tech and the \$4,000?---Yes.

When did you do that?---In November of 2013.

30

What about, what was the conversation about?---I received a telephone conversation from Sebastian Reid.

All right. And what did Sebastian Reid say to you?---Sebastian Reid rang me and ah, he rang me at the office and he rang me at home. I – messages were left at both home and the office. I returned his call I believe from home. He told me that he wanted to let me know that he or the firm had received a notice to produce from the Independent Commission Against Corruption requiring the production of Liberal Party trust account records held by the firm. I said, "I don't know anything about it, what's it about?"

40

And he said, "They're the trust records that we held for the Liberal Party." And I said, "What happened to the money?" And he said, "It was paid out to Mickey Tech." And I think I, yes, I must have known the existence of Mickey Tech then because I said, "Well, that's a company associated with Ray Carter's partner, I'll have to ask him about it." And within the next few days I spoke to Ray Carter and asked him about it.

And what did you say and what did he say?---I said, "I received a call from Hartcher Reid about the moneys in the trust account that were paid out to

Mickey Tech. Do you know anything about it?" And he said, "Yes, I do, they were moneys that were taken out for the Federal campaign and for the John Howard dinner."

And what did you say to that?---I accepted that.

You didn't say anything about it?---I accepted that.

10 Well, sorry, what do you mean, you're a former solicitor aren't you?
---Yes.

Do you know how significant the obligations which bind a solicitor about treatment of moneys in a trust account – you know how significant they are?
---Yes, of course.

20 So your own nephew had told you that money had been put through the Hartcher Reid Trust Account and disbursed to Ray Carter in the name of Mickey Tech for the what, John Howard fundraiser?---No, no, ah, Sebastian Reid didn't tell me that, Ray Carter told me that.

Yes, but putting it all together you must have said, good Lords, this could be a most egregious breach of the trust accounting rules, didn't you raise that with someone?---I accepted the fact that Ray had acted appropriately as he had always acted appropriately.

Well, sorry, that's not right is it? I mean money is going into the Hartcher Reid Trust Account and being paid to Mickey Tech for what, for what purpose?---Well, according to the documents IT services.

30 So you thought it was going to what, IT services for the Federal campaign or the John Howard dinner, did you?---Well, that's, no, let's go back. That's what Mr Carter told me that the money had been taken out for.

But you see there that would have revealed to you the most egregious breach of the trust accounting rules, wouldn't it?---Not necessarily.

Why not?---Because the money may have been lawfully, Mickey Tech may have been lawfully entitled to the moneys.

40 Lawfully entitled to moneys for the Federal Election campaign?---Yes.

How could that come about?---Well, the Federal Election campaign wasn't something that I was involved in so I wasn't going to inquire about- - -

No, but you're a solicitor, come on, how could- - -?---No, I, no, no, let's correct the record. I ceased to be a solicitor in 1992.

Isn't it - -?---Let's, let's use language with some precision, please, Mr Watson.

Okay?---Hmm.

Now, listen, Mr Hartcher, what- -?---That was 20 years ago.

10 Righto. What then was Mickey Tech's money for the Federal Election campaign doing in the Hartcher Reid Trust Account?---I have already explained to you I think now on seven occasions, I don't recall.

Go ahead, do it again?---Well, if you want it again I'll give it you again. I don't recall that transaction.

20 But- -?---All I know, all I know, no, let me explain, because you're saying you don't want me to leave here without giving me the opportunity to explain – all I know is the conversations that I had in November 2013 with Mr Reid and with Mr Carter. I do not recall any conversations in November 2011.

And what's more it seems to me that you can remember word for word, moment by moment, the exact terms of those conversations in 2013? ---The first conversation was quite a surprise to me, yes, from Sebastian.

30 And you're telling me that however there is no detail which you can bring to mind regarding the earlier conversations which apparently occurred with Sebastian Reid?---They were two and a half years ago, I was a Minister, extremely busy Minister, very active in my portfolio. The conversations that you've, you've produced to this inquiry are each very short, very abbreviated conversations two and a half years before.

Well, just- -?---When I received dozens of telephone calls each day and had dozens and dozens of meetings each week.

Well, I want you to know what I will be putting, Mr Hartcher. Putting to you that you pocketed that \$4,000?---I reject that absolutely.

40 All right. Go ahead and reject it and don't worry about qualifying it, just reject it?---I reject it absolutely.

But I'm putting to you that you pocketed the \$4,000?---And I resent the fact that you should even make that.

Don't you, don't you dare tell me- -?---I resent the fact. I deeply resent- - -

- - -you resent anything I do. I've got a job to do and you know that? ---And I deeply resent the way you're doing it.

THE COMMISSIONER: Just a minute.

MR HENSKENS: I object, I object.

THE COMMISSIONER: Just a minute, please.

THE WITNESS: Well, I resent you- - -

MR HENSKENS: I object, I object.

10

THE WITNESS: That is- - -

THE COMMISSIONER: Could you please not argue. Take a seat, Mr Henskens. Take a seat, please. Can we all just back off right now. Mr Hartcher, please.

MR WATSON: You- - -

20

THE COMMISSIONER: Counsel – just a minute, Mr Watson. Counsel Assisting has a job to do?---He does.

And you started talking over the top of him before he had a chance to finish the question. Now, let him finish the question. You can protest all you like about the proposition he puts to you but let him finish the question?
---Certainly.

MR HENSKENS: Now, can I please – can you – will you please entertain my objection and hear my objection?

30

THE COMMISSIONER: I know what your objection is, Mr Henskens, and I'm not averse to it.

MR HENSKENS: Well- - -

THE COMMISSIONER: I just explained why I don't want things to degenerate into a screaming match.

MR HENSKENS: Could you please request Counsel Assisting not to scream at the witness.

40

THE COMMISSIONER: Yes. And I would also make the same point in relation to the witness. They're both setting each other off so I think everybody needs to take a backward step.

I note, I note the objection, it's well founded. Thank you.

MR HENSKENS: Thank you, Commissioner.

MR WATSON: But the point- - -

MR HENSKENS: I mean there are professional obligations.

THE COMMISSIONER: I know, I know. And people- - -

MR WATSON: Well, we'd better start again. I'm so sorry, Mr Hartcher. You pocketed the \$4,000, didn't you?---I did not.

10 You instructed Ray Carter to get the \$4,000 in cash out for you so you could pocket it, didn't you?---I did not.

You instructed Ray Carter or you tried to persuade him to give false testimony to ICAC, didn't you?---I did not.

You used your nephew, Sebastian Reid, as a conduit to launder money which didn't belong through, to you, didn't you?

MR HENSKENS: I object, I object.
20

THE COMMISSIONER: Wait a minute, wait a minute. What's wrong with the question?

MR HENSKENS: Um- - -

THE COMMISSIONER: You used the money to- - -

MR HENSKENS: Launder, it's the use of the word launder. Now, launder has a particular- - -
30

THE COMMISSIONER: Are we going to- - -

MR HENSKENS: - - -meaning- - -

THE COMMISSIONER: All right.

MR HENSKENS: - - -within the Crimes Act- - -

THE COMMISSIONER: All right. All right.
40

MR HENSKENS: - - -that is a legal conclusion and there is no basis to suggest that there has been an infringement of the Crimes Act with regard to laundering money.

THE COMMISSIONER: I don't know, I think the proposition's got to be put because it may be that that's a submission that Counsel wants to make and then you can respond to it. But in any event even if we chose a phrase such as disguise the source of we're still getting the same point aren't we?

MR HENSKENS: Well no, launder has a particular - - -

THE COMMISSIONER: All right?

MR HENSKENS: - - - meaning and it - - -

THE COMMISSIONER: Do you object - - -

10 MR HENSKENS: - - - ought not to be used.

THE COMMISSIONER: Do you object to the question being rephrased in terms of disguising the source of funds?

MR HENSKENS: If that is the factual allegation that's being made I don't have any objection to that.

THE COMMISSIONER: All right. Go on, Mr Watson.

20 MR WATSON: I want to make it clear I'm putting that Mr Hartcher laundered the money through Hartcher Reid?

MR HENSKENS: Well I, I - - -

THE COMMISSIONER: All right. Well then, then that's a proposition that Counsel wants to put based on what he I assume will be an ultimate submission - - -

MR HENSKENS: Well - - -

30 THE COMMISSIONER: - - - and he's entitled to put it if he wants an answer to it?

MR HENSKENS: No, if he's going to put, he's got no basis to put a legal conclusion to the witness without setting out the elements of the, of the section which he says have been satisfied on the evidence to justify a rolled up emotive sensational media grabbing proposition of that kind. Because we've looked at this carefully and we see no basis in law or fact for that proposition to be put.

40 THE COMMISSIONER: Well it's noted that Counsel needs to put the proposition and he can put it. Go on.

MR WATSON: You set out to launder the money through your nephew's trust account didn't you?---I did not.

And you knew at all times the money belonged to the Liberal Party, not to you didn't you?---I have now told you on at least eight occasion I don't recall the transaction.

Mr Hartcher, I want to go further and suggest that you were at the centre of several electoral funding schemes. To be fair to you I'll name them. You knew about and encouraged the use of Mickey Tech as a means of washing Liberal Party donations didn't you?---No.

10 And using Mickey Tech as a means of washing donations from prohibited donors, didn't you?---No.

You also were instrumental in setting up a business called Eightbyfive weren't you?---No.

And you set it up with a view to using it to wash funds which were donations to the Liberal Party?---No.

20 Including donations from prohibited donors, didn't you?---No.

You also used an organisation called the Free Enterprise Foundation for the same purpose didn't you?---No.

Would you have a look at this, this document. It's a blue folder with some documents in it, and tell us whether you recognise it or anything in it?---Well, there's a number of documents I see.

30 Well, first of all starting with the blue folder, do you recognise it?---It's a blue manila folder. It's got the words, "Poole Legislation," on it. They're not in my handwriting.

All right. You don't recognise it or you couldn't distinguish it from - - -?---I couldn't distinguish it from any other blue folder.

- - - from any other blue folder. All right. Now, let's have a look at documents within the blue folder if we could. Do you recognise any of them in the sense of having seen them before?---Well, can we go through them, there's a number here and we'll need to go through them fairly slowly, Mr Watson.

40 Doesn't trouble me, Mr Hartcher?---That's excellent.

I've got nowhere better to be unfortunately?---I recognise documents in my handwriting relating to polling figures. One, two, three, three pages - - -

Three otherwise blank A4 sheets of paper with handwriting on them mainly dealing with percentages of votes in seats on the Central Coast?---That's right, yes.

So you recognise that and that is because you see your own handwriting on it?---That's right.

And what's all that about then?---They're, they're ah, polling that was taken at different stages prior to the 2011 Election which would have been supplied to me and advised to the campaign committee.

10 And can you explain how they are in the blue folder? For example, would you have put them in the blue folder?---Oh, no. The, no, look, let's go through it one thing at a time - - -

No. No. Sorry?--- - - - Mr Watson, because you've asked me which documents - - -

No, stop, stop?--- - - - I identify - - -

Stop.

20 THE COMMISSIONER: We have to proceed on the basis, Mr Hartcher, that Mr Watson asks one question at a time and you answer one question at a time?---All right. All right.

MR WATSON: Well, how would they be in the blue folder? Would you have put them in the blue folder?---Well, they would have ah, they would have been ah, notes which would have been given to the campaign committee, or members of the campaign committee.

30 Yes. Now, how would they be in the blue folder? Would you have put them in the blue folder?---Not necessarily, no.

Well, can you explain otherwise how they may have come to be in the blue folder?---Oh, anybody could have put them in the blue folder.

Well not anybody. It could only be members of your staff or - - -?---Or the campaign committee.

- - - somebody who had access to the blue folder?---Yes.

40 All right?---The staff or the campaign committee.

All right. So who was on the campaign committee?---Oh, there were a number of people. The campaign committee represented the executive of the Conference, the, the - - -

Yes, all right, so you can't give us names?---No. Hang on. Hang on. You've asked me a question. Are you going to allow me to answer it?

MR WATSON: I don't - - -

THE COMMISSIONER: Go ahead, Mr Hartcher?---The campaign committee represented the executive of the Conference, the President, the Secretary, the Vice President, the Treasurer. It represented the representative of each of branch and it represented, yeah, so ah, it comprised of a group of around about eight to 10 people and it also brought in people who'd been given specialised tasks like fundraising or electioneering.

10 Great. Now, so one of those persons could have put it in the blue folder?--- Well, anyone of them would have had access. We're talking about this, you've asked me about this document.

Yes?---Anyone of them could have put it in a blue folder.

All right. Why would they do that?---Well, I don't know. You'd have to ask them wouldn't you.

20 Okay. Well let's have a look at the next document?---Right.

Pull out another document?---Yes. We're looking now at ah, two letters from the Electoral Trades Union one of which appears to be a copy of another one.

Yes. Sent to you by Mr O'Riordan?---Yes.

And - - -?---Yes. And - - -

30 And is that a letter that you recall getting?---Yes. I do recall getting that letter.

And can you explain what it's doing in the blue folder?---Well, it too would have been supplied to the campaign committee.

All right. Well so, do the campaign committee keep folders do they?--- Well, members of the campaign committee keep their own records, yes.

40 All right. So, well are you suggesting that somebody in the campaign committee could have put those letters, the letters from Mr O'Riordan into the blue folder?---Well they could have.

What about you, could you have done it?---I possibly could have.

Well what about the handwritten notes that we spoke about earlier, the polling results? Could you have placed those in the blue folder?---Yes, I could have.

All right. Well let's go - - -?---Well, no. Hang on. Hang on. Hang on. I would have distributed those. Where they eventually went to I wouldn't know.

You'll see that they're originals?---Yes.

You would have if you were distributing the document distribute copies would you not?---No. No.

10 Well, you would just give away the original?---Well, they're only photocopies of handwritten notes.

All right, well - - -

THE COMMISSIONER: Mr Hartcher, can I just - - -?---Sure.

I'm sorry. Can I just ask you a question? In all of the activities that's undertaken in the lead up to an election there'd be I would have thought hundreds of documents flying around at any point in time?---Yes.

20

Did you have any system such as colour coding folders in order to distinguish what would be fundraising or campaigning committee matters separate from electioneering matters or things of that nature, was there any - - -?---No.

- - - filing system?---No there wasn't a separate system.

So nothing that would indicate to you that that blue folder was of a particular type?---No. No.

30

MR WATSON: All right. What I'll, well, sorry, we should go back to the handwritten notes. Might you have put those in the blue folder?---Are we referring to the ah, polling figures?

Yes?---Yes.

Might you have put those in the blue folder?---Well um, as one of a dozen or so people on the campaign committee, possibly yes.

40 Okay. Now, we'll go through the folder. What's the next document that you see? I think there's a letter from Ms McManus of the ASU?---Yes.

And is that a letter you received?---It's addressed to me. I received it, yes.

And it's the original isn't it?---Yes it is.

And would that be the sort of thing that you keep or discard?---Well normally I would have discarded it.

You would throw away an original letter from a Trade Union official?---
Once, once, once it had been addressed and the election was over, yes.

And you don't keep those sorts of documents, is that right?---Well there
was, there would be no point in keeping it. That related to a request for a
commitment to the 2011 Election. Once the issue had been addressed there
would be no, and the election was over – I'm finishing my answer, Mr
Watson - - -

10

No, I'm not, I'm not worried?--- - - - if you'll allow me. Oh no, you're
giving me that look to wind up. The - - -

I'm always giving that look?--- - - - the ah, the ah, once the issue had been
addressed and the election was over then there would be no point retaining
the document.

20

All right. So can you explain why it's retained?---Well, I can explain why
it's retained, because what was happening was there was a huge number of
documents as the Commissioner has said generated during the election
campaign which were simply placed in piles all around the office ah, and at
various stages there were gathered up by the staff, put into folders and then
put ah, and put to one side for me to go through them sooner or later and
decide which were to be retained and which were to be destroyed.

And could you have put that letter into the blue folder do you think?---Well,
I've already said that these, these were the documents that were, would have
been shown to the campaign committee.

30

Could you have put that document into the blue folder do you think?---As
one of the - most likely not, most likely not because - - -

Would you have put that document into the blue folder?---I'm - I think I just
answered that.

Could you have put that document into the blue folder?---I think I just
answered it.

40

MR HENSKENS: I object, he's answered it.

MR WATSON: I don't think he did.

THE COMMISSIONER: He said mostly not but - - -

MR HENSKENS: Not, yes.

THE COMMISSIONER: - - - but that doesn't really account for the
possibility that he did.

Is it possible, Mr Hartcher, that you put it in there?---It's more likely that I didn't than I did.

All right.

MR WATSON: And what else is in the folder, Mr Hartcher?---Are we having a joke now, Mr Watson, are we? We're - - -

10 THE COMMISSIONER: Mr Hartcher, look, look this cuts both ways?
---Yeah.

Counsel Assisting has already had a bit of a temper tantrum?---Yeah.

I don't think your comments are helping a great deal. Can we please just - -
-?---Right.

- - - restrict to answer questions?---Certainly - - -

20 Go on?--- - - - with great respect to you, Madam Commissioner.

MR WATSON: Now what else is in the blue folder?---There's ah, three other A4 white pages.

Rightio. Well, one at a time perhaps?---Okay. The first one is headed, well, the first one is what appears to be a ledger account which is typed and which is in ah - - -

30 Just read out the top line so we know when we're looking back through the folder which one you're referring to?---Where, where, the top line reads ah, "Item WC, WBC, itemised, running total."

Right, and that's WBC Westpac Banking Corporation?---Most likely, yes.

And have you seen that document before?---No, I can't recall it, seeing that document.

Never seen it in your life?---No, I don't recall seeing it.

40 Well, can you explain what it is now?

MR HENSKENS: Can he please finish his answer? He's cut off now two answers in a row by my learned friend not being given an opportunity to finish his answer.

THE COMMISSIONER: I think he said no each time. Go on.

MR HENSKENS: But he's still giving an answer when my learned friend is asking the next question and he ought not do that, he's been a barrister for long enough to know that he ought not do that.

THE COMMISSIONER: Yes, go on, Mr Hartcher, what were you going to say?

MR WATSON: Oh, well, I'm always learning, Mr Hartcher. What were you saying?---Well, can you repeat the question please, Mr Watson?

10

I don't - - -

THE COMMISSIONER: Have you seen that document before?---I don't recall seeing this document before, no.

MR WATSON: All right. Can you explain what it is now?---Well, what it is it looks like some form of ledger account.

20

What kind of ledger account, what would it be about?---It looks as though its an account relating to two functions that were held, one at The Cowrie, one for legal services, moneys that were held in the WC, the WBC, moneys that were held by FEF um, and disbursements, they're the headings.

What's FEF?---Well, FEF I am assuming refers to the Free Enterprise Foundation.

30

And when did you first hear about the Free Enterprise Foundation?---Well, the Free Enterprise Foundation's been in existence for many years and I've been a member of the Liberal Party for many years. Ah, I don't know when I first heard about the Free Enterprise Foundation but I've known that it existed for many years.

What, so well before 2011?---Oh, yes, yes.

Well, how would you interpret the meaning of the reference there on that sheet of paper to the FEF?---Well, as I say - - -

40

How should we interpret it?---As I said, I can't, I don't recall seeing this document before.

No, but I want you to interpret it for us now?---But it's a - yes, yes, and I'm only too happy to do so. If we start the beginning the heading "WBC" would relate to, apparently relate to moneys that are held at the Westpac Bank. If you look at the next heading "FEF" it has two subheadings, "Outstanding 39,900" and "Nicolaou 10,000." I am assuming looking at this document now I believe for the first time it relates to moneys that FEF are holding but I can't understand what the distinction is between outstanding and Nicolaou.

What would you understand would be the role of the FEF in holding those funds?---I have no idea.

None?---Well, my understanding was that the Millennium Forum and Mr Nicolaou looked after the Sydney bases of the Party's - - -

I'm asking about the FEF?---Yes.

10 What, what did you - - -?---I had no understanding that the FEF was involved in any way.

All right. Well I just want to show you a couple of other documents before lunch?---Yes.

Put that one aside and go to the second last?---Second last, yes.

Identify it if you would?---Sorry?

20 Identify it if you would so that we can - - -?---This one here?

Yes?---This one here is from Kevin Gregory.

And it's got some handwriting on it?---Yes.

Whose handwriting is that?---That's mine.

30 How could that end up in the blue folder?---Well presumably it was a sheet of a paper and which I scribbled a note upon at some stage or another while it was on my desk.

And it's ended up in a blue folder. How could that come about?---Well because whoever has then gathered up the papers has gathered up this one too and put it in the blue folder.

Could you have done that?---I doubt it.

40 When you say you doubt it who could have done it?---Oh anyone at the staff could have done it.

All right. Well what's the last document?---The last document is headed "Funding forecast up to 1 January 2011."

And what does that indicate to you?---Well what it says funding forecast up to 1 January 2011.

Funding for the State Election campaign do you agree?---Well let me read the document please. Yes, it, it appears to, it – well it relates to a funding forecast up to 1 January 2011.

Well so it seems to relate to funding for the 2011 election, don't you agree?
---Well it could.

What else could it be, Mr Hartcher?---Well I don't know, I haven't seen this document before.

10

What else on earth could it be, Mr Hartcher?---Well - - -

Come on please, if there's some other interpretation placed on it tell us?---I just told you I am seeing this document now for the first time.

Yes, and I've just asked you a question. What else could - - -?---So - - -

20

- - - it relate to?---How do I know what on earth it relates to but I am prepared for the sake or argument, MR Watson, to accept your contention that it relates to the 2011 State election.

Put the documents back in the folder, Mr Hartcher. That blue folder is yours and the documents in it are yours aren't they?---The blue folder, the documents that I have said I know are the documents I know the documents. So I don't know are I don't know.

30

I want to show you a little film, you'll see it'll come up on the screen. I want to show you a little film about when we recovered this blue folder. Don't distract yourself it's important that you watch the screen, Mr Hartcher. Can you recognise the scene generally, that's your office up at Erina, correct?---Yes, yes, I - - -

These are – it's an enclosed office in the sense that there's a door?---Yes.

There's a desk and some chap is sitting there looking through your papers?
---Yes.

And now a woman with blonde hair - - -?---Yes.

40

- - - has just gone over to a little desk. I'll just get the film stopped there. In fact if we go back a bit you may be able to even, I'm not sure whether we can but you may even be able to see a blue coloured folder?---Yes.

That's the blue folder I want you to accept from me, we can prove that. What's that tray it's sitting in? Is that a kind of in-tray for you?---No, it's just a sort of holding tray where documents are placed.

Right. And has it got anything to do with you and your work, Mr Hartcher?

---It's a holding tray, they're, they're documents which the – that desk is used by me when I see Members, when I see people if there are papers on that the staff gather all, all the papers together put them in folders and then put them away in trays.

Well does it have anything to do with your work?---Well it could.

Does it for example hold - - -?---No, no. I'll – please let me finish.

10 THE COMMISSIONER: You'll have to – no, sorry. I thought you had finished and - - -?---I hadn't finished.

- - - Mr Watson decided to ask another question. What did you want to say?---What I wanted to say was the um, personal papers are also put – if you – on that table, Madam Commissioner, that's where they also put the personal papers for me.

MR WATSON: All right. That same table where we found the blue folder?---Where you say you found the blue folder, yes.
20

Sorry, Mr Hartcher, what did you mean by that?---Well you're the one making the allegation, I'm not saying that that's the same blue folder.

Well you're not suggesting are you that ICAC's planted documents on you?---I'm not making any suggestion at all.

All right. So well let's just go - - -?---Yes.

- - - by this people doing their duty so that they, that blue folder is the one that you've got with you in the witness-box, just accept that for the moment, Mr Hartcher?---I'll accept that, yeah.
30

All right, good. Mr Hartcher, so you say that that blue folder is sitting in a tray where your personal documents are left?---No, no. I'm saying - - -

Well I think you did?---No, I didn't if you'd listen to me. I'm saying that table is also the same table where personal documents are put for me and where documents are gathered up and collected in files for me to go forward to go through at a later date.
40

All right. Well so you know where we stand I'm going to suggest to you that the documents in that blue folder are documents which were held by you known to you and even collected in that folder by you. Do you understand what I'm saying?---Well I have admitted I know some of the documents in that folder, yes.

Right, thank you. Is that a suitable moment, Commissioner?

THE COMMISSIONER: Yes, we'll take the luncheon adjournment.
Resume at quarter to 2.00, thank you.

LUNCHEON ADJOURNMENT

[12.51pm]