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PUBLIC
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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION CREDO AND SPICER

Reference: Operation E12/2107/0821

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 19 MAY, 2014

AT 1.47PM

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

THE COMMISSIONER: Yes, Mr Hartcher, if you wouldn't mind coming back into the witness-box, thank you.

<CHRISTOPHER PETER HARTCHER, on former oath [1.47pm]

10 MR WATSON: Commissioner, I'm going to tender that DVD. I think what I should do is tender the whole of the DVD not just the excerpt.

MR MAKUCHA: Commissioner, my name is Paul Makucha, may I address the Commissioner?

THE COMMISSIONER: Well, Mr Makucha, I think you're going to have to wait until we finish with Mr Hartcher's evidence and I'll hear from you later this afternoon before we adjourn.

MR MAKUCHA: It doesn't matter I can wait for several days. Thank you.

20 THE COMMISSIONER: All right. Yes, well that'll be Exhibit S96.

#EXHIBIT S96 - VIDEO FOOTAGE OF EXECUTION OF SEARCH WARRANT- OFFICE OF CHRISTOPHER HARTCHER

30 MR HENSKENS: Commissioner, Exhibit S96 hasn't previously been served on any of the legal representatives. It's obviously a document which we would want to review overnight.

THE COMMISSIONER: Yes.

MR HENSKENS: Is it possible for the Commission staff to provide us with a copy at the end of today so that we may look at that over, over tonight?

THE COMMISSIONER: Are there copies available, Mr Watson, do we know?

40 MR WATSON: Just finding out. Yeah, we can do that.

THE COMMISSIONER: Yes, all right. Yes, Mr Watson.

MR WATSON: Now I'm so sorry there was something else I was going to show you but look I – I'll just show you another, Mr Hartcher. I'll give your barrister one. Mr – there's a few copies – it'll go up on the screen I'm sure but Mr Koelma's lawyers might want one of those.

This is just a small bundle of documents, Mr Hartcher, you can see there's numbered in the top right-hand corner so that'll make it easier to deal with them. The first is a document that we'll be able to capture from the Commonwealth Bank and you'll see it refers to an account number. I want you to assume that that's the account number of Eightbyfive. Will you just accept that for a moment?---Yes, yes.

And you'll see that it's dated 24 January 2011 at 11.45am?---Yes.

10 Then if you turn over to page 3646 we've been able to capture this as well. This is Westpac Banking Corporation record of 24 January 2011. So you can see that's the same day. There's a deposit into your account of two items, cash \$2,000 and a cheque for \$68. Do you see that?---(No Audible Reply)

Do you see all of that?---Yes, yes, I do.

20 And we can work out what the \$68 is that was a cheque that you'd received from the Parliament of New South Wales for some reason or another but the, you'll see that the point I'm trying to make is this it looks as though \$2,000 has come out of Eightbyfive and straight into your bank account. Do you see that?---Yes, I do.

What's all that about?---I don't know.

Well did you ever get money from Tim Koelma?---I'm quite, quite sure I didn't get money from Tim Koelma.

30 Well have a look at page 3646, I mean that's a deposit slip in your account?---Yes.

Do you know whose handwriting it is?---It's not mine.

It's not yours?---No.

But do you know whose it is?---No, I don't.

40 All right. Well could somebody be depositing money into your account without you knowing?---Well I would certainly find out sooner or later wouldn't I when I saw my bank statements.

You see if you look at page 3645 the withdrawal of cash occurs at Erina 11.45am?---Yes.

If you look at page 3647 the deposit of cash into your account occurs at Erina at 12.21pm?---It does.

Can you explain any of this?---No, I can't.

Would there be some reason why you would be getting money from Eightbyfive?---No, I can't – no, there is no reason why I should be receiving any money from Eightbyfive.

Well is there some reason why you should be receiving money from Tim Koelma personally?---Well not, not that I can – I mean this is the first time I've seen these documents, there's – I've no – no, I would need to, to certainly think about that and have a look at my own bank records to try and ascertain what all this is about.

10

Well it seems pretty plain it's money that's come out of Eightbyfive and into your account. Don't you agree?---Oh yeah, look I'm not disputing that there's been a withdrawal of 2,000 and a deposit of 2,068 one which is a cheque but the, the handwriting is not mine because I don't, I can be quite assure of that I don't do sevens in that way, that - - -

Well I'll tender that document, Commissioner.

THE WITNESS: Yes.

20

THE COMMISSIONER: Yes. This will be Exhibit S97.

#EXHIBIT S97 - BANKING DOCUMENTS FOR THE ACCOUNT OF MR CHRISTOPHER HARTCHER (PAGES 3645-3652)

MR WATSON: Commissioner, I want to tender a copy of all the documents referred to in what we call the blue folder. It's even got a blue cover. I'll tender a copy of that if I may.

30

#EXHIBIT S98 - BLUE FOLDER CONTAINING VARIOUS DOCUMENTS FOUND DURING EXECUTION OF SEARCH WARRANT AT OFFICE OF CHRISTOPHER HARTCHER

MR WATSON: Now, Mr Hartcher, I just want to take you to another document, it's, I'll show it to you, it's in an evidence bag and it's a couple of loose sheets?---Yeah.

40

And you'll see that this contains a number of loose documents. I'm just giving you the original so that you can see the original while we do it? ---Yes.

You'll see that one of the sheets is in typescript and it's got cash on hand? ---Yes.

Do you recognise that?---Yes.

What's that?---Well that's a document that's been prepared in some stage prior to September 2010 of some fundraising planning for 2011 State election.

All right. And so there's some handwriting down the left-hand side. Do you recognise that handwriting?---Yes, that's my handwriting.

10 And down the foot of the page there's a section headed "RLC chasing up"?
---Yes.

Do you recognise that handwriting?---Well there's no handwriting there's, do you mean there's some symbols there and some figures. Is that what you're referring to?

Yes?---Yes.

Is that yours?---I, I – the – yes, yes, look the 25's definitely mine and the,
20 the other two are more likely mine.

Now the second page or there's another page which has got on it some details of a Mr Chris Jenkins?---Yes, I see that.

And there's some handwriting on there, Laurie he lives on the Central Coast, that'd be a note to Laurie Alexander?---Yes.

And that's in your handwriting that note?---Yes.

30 All right. So, and then if we look there's a letter there which is dated 1
December 2009 addressed to all MPs and Senators by the Liberal Party of
New South Wales?---Yes.

And then finally there's a document which on one side is a typescript, it's an email from Research Service to everyone. Do you see that?---The Parliamentary briefing paper?

Yes?---Yes, I see that.

40 Okay. Well I want to ask about the handwriting on the back of that
document?---Yes.

You'll see there's lots of handwriting at different angles and the like?
---Yeah, with different pens.

Different pens - - -?---Yes.

- - - but all of the handwriting is yours isn't it?---No. Look when I saw this there is and I'm not going to, I don't make a fuss of this but one of the

entries there the word, go to the right-hand side new regime it looks like that is and I don't argue with you, Mr Watson, this is of any great significance necessarily but that's definitely doesn't look like my handwriting. I think every other word on that document when I saw it looked like my handwriting.

Well one thing I'm very interested in is that over on the left-hand side?
---Yeah.

10 Now the people can't see this on the screen so I'm sorry about that but you'll see there's a reference to David Sharpe and a phone number?---Yes, I see that.

And that's David Sharpe from Buildev of course?---Well I would assume so.

And then it says underneath Packnac, P-a-c-k-n-a-c?---Yes.

20 And there's a reference to Nathan?---Yes.

Who would that be?---Well I now assume that that is a reference to Nathan Tinkler.

Packnac and Nathan and then a PO box but there's no number?---Yes.

30 And what's all that about?---Well there's an electronic diary entry which you've produced in one of your exhibits which has Packnac Nathan in, which I think is 3 June of 2010 and I had no idea what that referred to or meant. Then on the weekend I saw this weekend and that made me draw the inference that Packnac Nathan related somehow to David Sharpe.

Right. Well these documents were found I want you to assume in the in-tray or tray which we saw on the video tape, the same tray where the blue folder was sitting?---Yes.

And these were records created by you you'd accept?---They're, yeah, they're jottings by me.

40 Or penned by you?---Yes, yes.

All right. Well I tender those, Commissioner.

THE COMMISSIONER: Exhibit S99.

#EXHIBIT S99 - ADDITIONAL BUNDLE OF DOCUMENTS FOUND DURING EXECUTION OF SEARCH WARRANT AT THE OFFICE OF CHRISTOPHER HARTCHER

MR WATSON: If you return that now, Mr Hartcher and Mr Hartcher, I want to go back to some other evidence given to us by John Caputo and I have a feeling you may have referred to this in your evidence earlier. Mr Caputo has given evidence here that he gave you cheques, gave you cheques from Liberal Party donors on the evening of a Liberal Party fundraiser which was held at the Sheraton, is that right?---There was – well, we’re going to need to break out your questions into paths, Mr Watson, there was -
10 - -

Well, okay. Well I don’t want to be unfair to you I’ll tell you what he has told us in total?---Yeah.

He said, and this is pages 2936 as well as 2948 and 9, he has said that he gave you cheques, he personally gave them to you, Mr Hartcher, it was at or after or at the end of the evening of a Liberal Party fundraiser at the Sheraton. The particular evening was one where Greg Smith and yourself were special guests and Mr Caputo said that he gave you cheques worth
20 something like 5 to \$6,000. That’s the totality of his evidence. Perhaps you agree with part of it and don’t agree with other parts of it but you tell us?---I agree there was a function at the Sheraton Hotel on 24 March with myself and Mr Smith, I do not recall receiving any cheques from Mr Caputo that night.

Well, so do you deny receiving them or - - -?---No, no. I’m not denying it. I just don’t recall it. It was not, I, it was not my usual practice to receive cheques.

30 Well, Mr Caputo then went on and he said that later, that is after the function and one presumes within some days after the function further cheques were posted to you. Do you know anything about that?---No. Further cheques, I, no. You should give the correct record, Mr Watson. Further cheques he said were posted to my electorate office.

Oh, I see?---No. I object very much to the way you presented that question.

Well, he - - -?---I object very strongly.

40 THE COMMISSIONER: You’ve been, you’ve been given an opportunity to - - -?---Yeah.

- - - to answer the question. Now, we’ll forget about the comments and move on, Mr Watson?---Yes.

Well, in fact his evidence was he sent cheques to you. Whether you like it or not. I’m just telling you what the man swore to on his oath here, Mr Hartcher.

MR HENSKENS: Well my recollection - - -

MR WATSON: If you've got some resentment - - -?---My recollection was the electorate office.

MR WATSON: - - - take it out on Caputo, not me?

10 MR HENSKENS: My recollection he said they weren't sent to the electorate office?---To the office, yes.

THE COMMISSIONER: Well, well we'll find that out sooner or later - - - ?---We will and it's a big - - -

- - - when we look back at the transcript?---Well Madam Commissioner - - -

He has to put it to you, Mr Hartcher?---Yes.

20 He has to put it to you because - - -?---Okay, I accept that.

- - - because we have to make sure that - - -?---Yes.

- - - you've had the allegation put?---Yes, okay.

Now, go on.

MR WATSON: So you accept do you that cheques were posted to your electorate office?---I accept that that's the evidence he gave.

30 And, but what you're trying to say is this, that that which comes to your electorate office doesn't come to your attention, is that what you're telling us?---Yes. I do not have a key to the electorate office post office box. I do not clear the electorate office post office box.

So have you tried to follow up and find out what happened to these cheques apparently posted to your electorate office box?---What, in March of 2011?

40 You can answer my question, you see. You don't need to have a go at me. Have you done anything to try and follow up what has happened to those cheques?---Well I, having made it clear that I don't accept the fact that the cheques, there were cheques to, like, I don't recall cheques being given to me and I don't recall any cheques being drawn to my attention at the electorate office.

Well, have you had any problem with people stealing things from your PO Box?---

MR HENSKENS: Well, I object.

THE COMMISSIONER: Well I mean, look, he's entitled to explore what this witness knows about cheques posted to the electoral office. Mr Hartcher, did I understand you to say that you don't have a key to your own office?---That's right. No, no, to the post office box.

THE COMMISSIONER: Oh, to the post office box?---Office box, yes.

10 I understood the key to the post office box was hanging somewhere in the electoral office and it was generally available to people?---It was only used and available to the staff. I wouldn't even be able to find it myself, where it was.

But I mean, a number of staff had - - -?---Yes.

- - - access to it?---Yes. A number of staff and there was no fixed roster as to who cleared it.

Right?---Yeah.

20

MR WATSON: Well, have you had any reports given to you of problems, people who claim to have donated whose money hasn't shown up in accounts, that sort of thing?---Well, not that has come to me, no.

So you've never heard anything like that?---No.

And I take it you selected your staff on the basis you trusted them?--- Absolutely.

30 And knew them?---Absolutely.

And you wouldn't have any reason to think that they would be stealing cheques made out to the Liberal Party would you?---No reason whatever.

40 All right. Well, can you set us straight then. Have you got any idea what could have happened to these cheques which Mr Caputo says that he sent to your electorate post office box?---Well, what the normal, all I can do is tell you the normal practice. The electorate post office box would have been cleared by one of the staff and any cheques would have been given to Mr Carter who was the fundraiser.

We do know that, you must know the evidence about this by now, that some cheques from the Sheraton fundraiser turned up in the, the account of The Entrance SEC? You know that?---Yes.

Can you explain that?---No, I've no, no, no knowledge of that at all.

Well so to be fair to you, you like looking at documents, could the witness be shown exhibit S8?---Well, Madam Commissioner, can I object to that. I like looking at documents.

You did?---It's those sort of little asides which Counsel - - -

Sorry, you said - - -

MR HENSKENS: I do object.

10

MR WATSON: Oh, dear me?--- - - - which Counsel seems to specialise in.

THE COMMISSIONER: Oh, look, please. Please. This is like squabbling children. Can we just move on?

MR HENSKENS: No, but - - -?---Well if - - -

No really, Mr Henskens.

20

MR HENSKENS: No Commissioner, there's a very serious objection here and that is that my learned friend does try and goad the witness with these constant commentary.

THE COMMISSIONER: Yes, and it cuts both ways.

MR HENSKENS: He didn't need, he didn't need to - - -

THE COMMISSIONER: It takes two to tango, Mr Henskens.

30

MR HENSKENS: He did, well are you suggesting I'm doing it?

THE COMMISSIONER: No. I'm suggesting, and your client has already more than once provided unnecessary comments in the course of answering questions. I will, I will accept what you say and I will ask both Counsel Assisting and Mr Hartcher to please refrain from comments.

MR WATSON: So sorry, Mr Hartcher. Now, have a look at page 2419?--- Yes, I see that.

40

You'll see that there's a deposit slip for The Entrance SEC. Got it?---Yes. I see that.

And you'll see that on the same page there's, it sets out where the cheques came from. Now, we know the bank cheque came from, or is associated with Tim Trumbull. And we can see there that Mrs Mustaca made a small donation. And the two cheques which are there came from Nick Scali. We know all of this. We've been able to work out where they came from. Will

you accept that from me for the moment?---Well, it says Melusa Pty Limited not, are you saying that Melusa Pty Limited is Nick Scali is it?

Yes?---Is that what you're putting to me?

Yes?---Yeah.

Comfortable with that?---Well, that's the facts isn't it.

10 Right. Now, can you offer us any explanation how these cheques ended up in the account - - -?---No.

All right. Well, you should always let me finish the question?---Yes.

Can you tell us about, for example, when Mr Caputo tells us that he sent along cheques to your post office box - - -?---Yes.

- - - it's reasonable for us to put that evidence together and infer that these are some, maybe not all, but some of the cheques to which he referred.

20 Don't you agree?---No. I can't see the connection.

All right. Well, okay, well just leave that to us then. I don't want you to think we didn't give you a chance. Now, so did you, do you think gave Mr Spence those cheques?---I don't recall seeing these cheques at all.

Well, forget about whether you recall them or not. Just think about it. In terms of what you were doing up there on the Central Coast could you have been recycling the cheques given to you by Caputo by sending them off to Spence.

30 MR HENSKENS: I object to recycling. When somebody hands something over to someone it's not recycling. It's a deliberate - - -

MR WATSON: (not transcribable)

MR HENSKENS: My learned friend continues to use inappropriate language in his questions and I object to it.

40 THE COMMISSIONER: Well, if the witness doesn't understand the question he can ask for clarification but anyway, the question is, Mr Hartcher, could those cheques have been passed by you on to Mr Spence?--- I have explained in answer earlier that I did not clear the post office box, that anybody who received cheques in the post office box would have handed them on to Mr Carter.

MR WATSON: Do you know of any practice in your office where cheques were, I don't want to use the word recycled, but sent from, delivered from

your office to Mr Spence's office?---No. I'm not aware of any such practice.

Well, would you have condoned it?---Um, it would depend upon the circumstances. If the cheques appropriately belonged to Mr Spence's office then naturally they would have been forwarded on to Mr Spence's office.

10 Well tell me, is it appropriate practice for Mr Caputo to be sending you cheques directly at all?---Well, I have explained to you already that Mr, I don't believe Mr Caputo sent cheques to me directly, that Mr - - -

No, I'm so sorry. I'm so sorry. I should have made it clear?---Ah hmm.

20 Mr Caputo gives sworn testimony that he gave you cheques on the evening. You've said you don't recall it but you don't deny it. Just assume that's right. Would that be good or would that be bad practice for Liberal Party donor's cheques to be given directly to you?---It would be an undesirable practice to use a Member of Parliament as a, as a, as a person to be, be, be carrying the cheques. But I don't regard it as anything intrinsically wrong.

Well then why would it be undesirable?---Well because the Liberal Party code um, is very clear that it doesn't like its Members of Parliament handling cheques or cash that are related to election campaigns.

30 Have you ever done such a thing?---Well, not that I can recall but Mr Watson, I don't think that in the last 25 years of ah, of being a Member I can recall every such incident that's happened but I, I cannot look at you right, right now and say it has never happened but I certainly don't recall it happening in the 2011 elections.

Well, see we've got the sworn testimony of Mr Caputo that he did so, that he gave you five to \$6,000 worth of cheques. Is there any reason we shouldn't believe that?---Well, I thought Mr Caputo's evidence was that he gave some cheques on the night to me and posted some other cheques to the electorate office.

That's correct?---What the total of those - - -

40 Would you answer my question?---What the total of those cheques was I don't know.

All right. Well, that's not an answer to my question. Is there some reason we shouldn't accept Mr Caputo's evidence that on the evening he gave you cheques?---He gave me some cheques?

Yes?---Ah, now I um, as I say I can't recall it but I, I am not ah, disputing that - once again, I'm not disputing that Mr Caputo is an honest person.

All right. Well, the point is this, why then would you be engaging in this undesirable practice?---Well, it's a practice is not encouraged by the Party.

I'm asking why you would engage in this undesirable practice?---I suppose for the - simply because I would be returning to the Central Coast the next day and it would be easier to give them to me to hand over to Mr Carter.

Did you regard them as your property?---Certainly not.

10 Well, then why did you take them away to give to Mr Carter, Carter?
---Because I handed on an envelope which had been given to me to pass on to the fundraising. I don't regard that as taking them away. The, the - - -

Sorry, they were given to you and you drove up to the Central Coast with them in an envelope and you gave them to another person, is that what you're telling us?---I gave them to the appropriate person who was the fundraiser.

20 And you say you don't regard that as taking them away?---I - - -

What would taking away involved in that event?---Well, I regarded them as me acting simply as the post, as, as the postman rather than as taking them away. Taking them away has a context that you, that you, you know well, Mr Watson ah, being a postboy is a very different context.

All right. So you're just a mere post boy running between Caputo and Carter are you?---On that occasion if that is the correct version of events yes but as I say - - -

30 Well, why - - -?--- - - - I don't recall it.

Why would you allow yourself to be used like that by these two men?
---Well, because I trust both of them.

And so its an undesirable practice and you allowed yourself to be used as a postboy between two men engaged in an undesirable practice, is that what you tell us?

40 MR HENSKENS: Well, I object to that. The undesirable practice is that, is the Member of Parliament receiving the cheque.

THE COMMISSIONER: Handling the money, yes.

MR HENSKENS: It's not suggested that the, there was any undesirable practice at either other end which is what - - -

THE COMMISSIONER: No.

MR HENSKENS: - - - my learned friend suggested with those questions.

THE COMMISSIONER: Well, I think what's suggested is that Mr Hartcher's potentially exposed himself to criticism by even acting as a, as a conduit but anyway, go on.

MR WATSON: Well, you appreciate what I'm saying, I mean there's an undesirable practice afoot and you allowed yourself to act as the mere postboy of Carter and Caputo, is that right?---If that is correct, if that is what
10 happened.

Well, just assume it is, assume it is?---Well, if that is correct and I'm only assuming it for the, for, for the sake of ah, argument, I'm certainly not admitting it, ah, it would not be the recommended practice of the Liberal Party.

Why would you do it then?

MR HENSKENS: Well, I object.
20

THE WITNESS: Well - - -

MR HENSKENS: He said he can't - - -

MR WATSON: I withdraw that, I withdraw that. Well, look just trying to move on, what did you think that Carter was going to do with the cheques which you gave him as a postboy?---He was, he, he was going to ah, deposit them and act in accordance with the Liberal Party rules as far the election funding were concerned.
30

But I thought that the funding rules were that the cheques should go to head office?---No.

All right. Okay?---No. No, let's get that right, Terrigal SEC ah, continued to have an account long after the March 2011 election.

So did you think that these people at the Sheraton were making up their cheques to the Terrigal SEC did you?---They were contributing to the Central Coast campaign.
40

All right. Okay. You were quite aware of Mr Carter's fundraising activities weren't you?---Yes, of course.

And he spoke to you about his use of the Free Enterprise Foundation didn't he?---No, he did not.

And he reported to you in respect of persons, specifically those persons from whom he was getting money, he reported to you on their names didn't he?---No.

Just to make it clear, I'm putting to you that Mr Carter reported to you that he was getting money from Deano Seraylio, he did, didn't he?---No.

Tim Gunasinghe?---No.

10 John Stevens?---No.

Paul Levick?---No.

And Jorge Fernandez?---No.

He told you each of those persons was donating to your campaign didn't he? ---No, he did not.

20 Now if you'd heard that any of those names I've just mentioned had been donors you would have immediately recognised that each and every one of them was a donor prohibited by the legalisation?---Well, the legislation - no, you can't - no - - -

All right. So - - -?---You need, you need to be careful with your own words, Mr Watson, as to what a prohibited donor is. A prohibited donor is - - -

Thanks for the advice but - - -?---Yes, and I'm free to give it to you. Ah, the ah, the prohibited donor is carefully - - -

30 It's probably worth every penny?--- - - - is, is carefully defined in the Act as to what a prohibited donor is.

Well, thank you for that?---Ah, yeah, yes.

Yes, I'm familiar with that?---Yeah.

Listen, are you saying that Deano Seraylio wasn't a property developer? ---Well, I am saying to you that Mr Carter - - -

40 No, just listen to my question?---Okay.

Was Deano Seraylio was a property developer?---I wouldn't know.

Tim Gunasinghe?---I would assume Mr Tim Gunasinghe is a property developer, yes.

John Stevens?---I certainly would assume he is.

Paul Levick?---No, I don't know.

Jorge Fernandez?---Once, once again he may be or he may not be, I wouldn't express an opinion.

I want to suggest to you that you were aware of Mickey Tech and I mean at an earlier point in time. You knew about it when it was set up didn't you?
---No.

10 All right. Well, let's go to Eightbyfive. You do know about it, you certainly know about it now?---I certainly know about it now.

And the point is that you were instrumental in its creation weren't you?
---I was not.

All right. Well, could the witness see Exhibit S1?---Can you take this one back?

20 Would you open up Exhibit S1 at page 59?---Yes.

I show you this by way of background. You'll see that this is a lunch and it's between you and Mr Di Girolamo, you remember Mr Di Girolamo don't you?---I do think I do.

And then at page 60 there's this entry, it's a lunch with Mr Di Girolamo at Otto?---Yes.

And then it's got an entry, this is from your computer at work?---Yes.

30 CPH, that's you?---Yes.

Chris Hartcher to ring Tim, is that Koelma?---Yes.

Chris Hartcher to ring Tim Koelma after the meeting?---Yes.

What does that mean?---Well, what it says, Chris Hartcher to ring Tim Koelma after the meeting.

40 Well, thank you for that but just looking at it a little bit more deeply - - -?
---Mmm.

- - - what were you ring Koelma about?---Well, I was to ring him after the meeting.

All right.

THE COMMISSIONER: Given that it appears on that entry, Mr Hartcher, is it, is it likely that the call to Mr Koelma was related to the meeting you

were having with Mr Di Girolamo?---Madam Commissioner, can I make two points? It's five years ago, ah, that's the first point. The second point is you are, you are correct, it, it, it is likely that ah, there is some relationship - - -

But you can't say one way or the other?---Yes. But it is, I do point out it is five years ago.

Yeah.

10

MR WATSON: Well, have a look at page 66. Here is an entry, again from your Parliamentary computer, do you see that?---Page - sorry, page 66?

Page 66?---Yes. Yes.

Why were you arranging a meeting between Tim Koelma and Nick Di Girolamo, what could be its purpose?---Oh, it was to ah, introduce Tim Koelma to Nick Di Girolamo.

20

Well, why?---Because I had discussed ah, I was, I need to explain, Madam Commissioner ah - - -

THE COMMISSIONER: Yes, go ahead?---I was Shadow Minister for Utilities ah, which of course relates very much to ah, Australian Water Holdings and ah, as Shadow Minister for Utilities I had a number of dealings, limited dealings with ah, Mr Nick Ni - - -

Mr who?---Mr Nick Di Girolamo.

30

Di Girolamo, yes?---Ah, to ah, for him to brief me about the Rouse Hill project. Ah, in December of 2008 I ceased to be Shadow Minister for Utilities and at, I do recall at the lunch on 14 January, 2009 I explained to him that I would no longer be interested or involved in anything to do with, with water utilities or with the, his ideas of a public private partnership on the Rouse Hill project.

40

Right?---Now at that lunch, now that ah, I see the document it refreshes my memory, I said to him, I said if you're going to have a continuing relationship with the Opposition as to where you're going with the public private partnership, and I was unaware of any other consultancies he may have, you should either engage someone as an employee to work on it because it's such a big project to you, or you should get, you should contract out for someone to give you public relationships ah, consultancy advice and that's, that was part of the conversation. I think there were other parts of the conversation which are referred to there ah, but that was the gist, that was a, a relevant part of the conversation which then followed up ah, as the Counsel, Senior Counsel Assisting in a couple of meetings, one with Scott Farland and one with Tim ah, with Tim Koelma.

MR WATSON: Well what - - -

THE COMMISSIONER: Can I just clarify something Mr Hartcher?
---Yeah.

You said, you said that you said to Mr Di Girolamo if you want to have a continuing relationship with the Opposition you need some kind of public relations or - - -?---Yes.

10

- - - similar advice. Do I take it by the Opposition you meant your Party the Labor Party?---Yes, yes. No, no, we were the Liberal Party.

Sorry, the Liberal Party?---Yes.

Your Party the Liberal Party I mean to say?---Yes, yeah.

20

And that was your attempt to allow him to continue to make those contacts despite the fact that you were no longer in the picture?---That's right. I was now out of the picture and making it very clear I was, I was out of the picture but that he should in his own interests as a friend make sure that he had someone who, who would be in the picture.

MR WATSON: Well what did that have to do with Mr Koelma?---Well I um, suggested to him that he might like to meet Mr Koelma and see if Mr Koelma was a suitable person to work with him on Government relations.

30

So you were suggesting to Mr Di Girolamo that he engage or employ Koelma in that capacity, is that it?---No, no. I suggested that he might like to have any employee or a contactor and that a person who might, whom he might be interested to meet to discuss with and to vet and assess would be Mr Koelma.

Right. So then if we go on – I'm sorry, but it does seem to me as thought a moment ago you're saying these events are five years ago I couldn't possibly remember them but now you've had a sudden snap - - -?---No, no.

40

Would you let me finish please?---I certainly will if you let me finish when I give my answers.

Go for your life, say whatever you want.

THE COMMISSIONER: Well he has actually, he has actually let you finish the previous answer. We're in the middle of another question which is - - -

MR WATSON: I'll try and put it again.

THE COMMISSIONER: Yes.

MR WATSON: It seems to me as though your memory about it being five years old just took a sudden turn for the better, Mr Hartcher?---When I, when I saw the, when I saw the documents and was able to read them and refresh my memory, yes.

All right, well good. Have a look at page 78?---Yes.

10 This seems as though you're teeing up the meeting, you're the person who's acting as the go-between between Mr Di Girolamo and Mr Koelma doesn't it?---Yes, I'm arranging to introduce Tim to Nick.

Yeah. And if we look at page 79 we'll see that this is an entry from your diary. The date is set 27 February at Parliament House?---Yes.

And we can see for example from page 80 and 81 that Mr Di Girolamo's car was in on that day at your (not transcribable). Do you see that?
---Yes.

20

And that was when the meeting occurred during which you introduced Mr Koelma to Mr Di Girolamo and promoted Mr Koelma's skills, isn't that right?---I don't agree to the phrasing.

Okay well - - ?---I, I introduced, I certainly agree to the first part of your question that I introduced Nick to Tim but the actual conversation as to Mr Koelma's skills were really between Mr Koelma and Nick.

30 Well have a look at page 82 you'll see that Mr Koelma is sending an email to you and he's asking if you can pass something on?---Yes.

And that's the paper work in respect of Eightbyfive isn't it?---(No Audible Reply)

Don't you agree?---Well I'll read the document. It doesn't mentioned - - -

I'm dependent here upon your improving recollection you see?---Well that's
- - -

40 MR HENSKENS: I object to that.

THE WITNESS: That's, that sarcastic remark - - -

MR HENSKENS: I object to that, Commissioner.

THE WITNESS: Is yet another one - - -

MR WATSON: No, I mean - - -

MR HENSKENS: It's continuing, it's continuing - - -

MR WATSON: Sorry - - -

MR HENSKENS: - - - commentary by my learned friend.

MR WATSON: I'll make it plain.

MR HENSKENS: Can't he just ask questions, Commissioner?

10

MR WATSON: I'll make it plain.

MR HENSKENS: Is there a problem with that?

THE COMMISSIONER: All right. He's going to ask another question now.

MR WATSON: I'm just going to make it plain.

20

I am putting to you that you're bunging this on, that you're conveniently hiding behind I don't recall when it suits you and when you've got a speech to make all of a sudden you have a brilliant recall word for word. That's the truth of it isn't it, Mr Hartcher?---I reject that.

All right, okay let's move on. Look at page 92.

THE COMMISSIONER: I don't think we quite dealt with the previous email.

30

MR WATSON: Well I had assumed that the start of it, Commissioner, was that he couldn't see any reference to what I said therefore he didn't accept it.

THE WITNESS: No.

THE COMMISSIONER: Well except, except I don't know that he completed what he was about to say but - - -

THE WITNESS: I didn't finish.

40

THE COMMISSIONER: Mr Koelma is emailing you, Mr Hartcher - - -? ---Yes.

- - - and it appears to be Mr Koelma informing you of the progress of the business paper work?---Yes, yes.

Right. And that's in relation o Mr Di Girolamo's arrangement?---Well that's the inference that's been drawn yes, yes.

Right?---I don't have a problem with that.

All right. Well have a look at page 92?---Yes.

Mr Koelma's sending onto you the terms of the agreement?---Yes.

You're involved in this from its inception weren't you?---No.

10 No. Well he's writing to you about the details of the business agreement.
Can't you see that?---He's advising me of what he's doing and he is seeking
my counsel as a friend and as a person whom he knows to be a former
lawyer.

All right, okay?---I am not involved in the actual creation of the transaction
I am simply giving some friendly advice as an older person and as a former
lawyer.

20 Well have a look at page 102, it's an email chain starting at the bottom. The
first one's from Koelma to you?---Yes.

He's involving you in the details of negotiating it?---No.

No. What, he's just sending that to create an additional burden upon you to
read it is he?---What, are we reading, are we reading the same document? "I
spoke to Nick last Wednesday and emailed my document to him."

Yes. "Haven't heard back"?---"Haven't heard back I'll ring him
tomorrow." Yes.

30 All right?---Yeah.

You're involved from the inception aren't you?---No, no.

All right. Well let's read on. Then - - -?---No, I would like to explain if
that's okay.

THE COMMISSIONER: Well before we go any further can I just, can I
just - - -?---Sure.

40 - - - clarify something? I'm not quite sure, Mr Hartcher, what you're
reading into the term involved in?---Yes.

- - - because on one view of it if we all just use ordinary English words to
mean what they say in a benign sense you are involved in it from its
inception in the sense that you are giving advice in terms of how the
business arrangement should be structured, you were responsible for
introducing them and you're, you're, you're keeping if you like your interest

in Mr Koelma's activities updated. So in that sense you are involved in it are you not?---I accept that.

All right. If Mr Watson wants to put something else to you no doubt he will.

10 MR WATSON: Well I mean for example page 108 where Mr Koelma is telling you that he's signed up. Why is he giving that information?---Well he is, he is happy that he has now finalised his agreement and he's, I'm his referee, I'm the person who referred him on and he's letting me know as a friend.

All right. So do you accept this that you had recommended Koelma to Di Girolamo as a lobbyist?---No, I suggested that he engage a Government relations person who might also be in certain circumstances a lobbyist and I gave him Tim Koelma as a potential person.

20 Do you accept that you advised Nabil Gazal Senior to use Tim Koelma as a lobbyist?---Again in conversation with Nabil Gazal Senior I advised him for the same reason. Can I explain, Madam Commissioner, do you mind?

THE COMMISSIONER: Yes. Well can I just clarify?---Yes.

When you say you say you gave them advice about retaining a advisor/lobbyist -

Can I just clarify did you, did you nominate Mr Koelma as potentially a suitable person to fulfil those roles?---Yes.

30 Right?---Yes. Yes. I did.

MR HENSKENS: Government Relations person is what he said / Lobbyist?---Yes.

THE COMMISSIONER: Yes.

MR HENSKENS: Yes. But I think that, but you said that, Madam Commissioner, I think.

40 THE COMMISSIONER: Yes.

MR HENSKENS: Yes. Yeah.

MR WATSON: Well, do you accept that you recommended to the people of Buldev that they use Mr Koelma as a lobbyist?---Again, I suggested to the people of Buldev that I was – well, hang on. Madam Commissioner, can we just rewind please, Mr Watson, with your indulgence? I had

requested to Madam Commissioner that I be requested to explain the, the Gazcorp matter.

THE COMMISSIONER: Oh yes, go on. You wanted to talk about the - - - ?---Yes.

- - - circumstances - - -?---And - - -

10 - - - of Mr Nabil Gazal's - - -?---And, yes. Senior. That's right.
- - - introduction?---And you, and you agreed to that.

20 Go on?---Yes, thank you. Ah, the, with Mr Nabil Gazal Senior I did have a discussion which I can expand upon and, about his, he was acknowledging the fact that he was approaching death, that he wanted to have a closer relationship with, his sons to have a closer relationship with the Opposition. I explained to him that I was no longer Shadow Minister for Planning and would not be involved in any of the transactions that his family were involved in, and that he too would be better suited – this was a year after
the, a year, almost exactly a year after Mr Di Girolamo – and that he too would be better suited to have a Government Relations person working regularly with him and his sons. And he asked did I have any names and once again I recommended Mr Koelma. He then obtained from me Mr Koelma's name and phone number.

I think the next question was in relation to whether or not - - -?---To Buildev, yes.

30 - - - you did a similar thing - - -?---Yes.
- - - in respect to Buildev?---Buildev, yes.
- - - and you said yes you did?---Yes.

Right?---Yes. In, yes.

40 MR WATSON: Well, you accept that you did?---I accept that I had a conversation with Darren Williams and to a more limited extent with David Sharpe that I was no longer Shadow Minister for Planning and that any plans that they had in relationship to future Hunter development I would not be involved in and that they would be better served having a person who would work regularly with them on development of Opposition plans for the Hunter. And Mr Koelma was once again a name that I gave them as a person who might be suitable.

What other names did you give to Di Girolamo?---Well, I can't recall any other names to Di Girolamo.

There weren't any were there?---There could have been.

Well, let's not be flippant about it. Were there or not?---This was 14 January, 2009, Mr, Mr ah, at a, at a lunch at Otto's, Mr Watson. I can't recall whether I gave him any other names or not.

Well, what other names did you give to Nabil Gazal?---I don't think, in relationship to Nabil Gazal I think, I can't recall but ah - - -

10 And what other names did you give to the people at Buildev?---I can't recall.

Well, by saying you can't recall are you saying none?---Well, I'll agree with you to this extent, it is more likely - - -

Don't bother agreeing with me. Just answer the question. By don't recall are you saying there were none?---I think it's more likely that there were none.

20 Well, you were involved in the, setting up the relationship between Koelma and Gazcorp. You were right involved in that weren't you?---Only in the benign sense that the Commissioner has pointed out.

Well, sorry. What, you're now putting words in the Commissioner's mouth?---No. The Commissioner used the words benign in involvement.

All right, well - - -

30 THE COMMISSIONER: No, I said that, I said that in respect of the use of the term involved - - -?---Yes.

- - - when Counsel was discussing how the Eightbyfive enterprise was set up?---Oh, right. Okay.

All right?---I had no, no involvement in the actual creation of Eightbyfive.

All right.

40 MR WATSON: Well have a look at exhibit S4 for me if you wouldn't mind. This is between you and Gazcorp, you see?---(No Audible Reply)

Open up at page 992?---Yes.

You must know by now where I'm going with this. You'll see there that there's a meeting with the Gazal boys at 999. You'll see immediately afterwards, or the next morning at least a text message between you and Tim Koelma?---Hang on, can we, what page is that please?

999?---Yes.

Well what does that mean, “All went well on that new plan we discussed”?--That’s the um, 14 April or 13 April.

Sydney time, 14 April, 8.14am?---14 April. All right.

What was the new plan that you had discussed?---I’m assuming it’s the meeting on 13 April.

10

With the Gazals?---Yes.

So what was the new plan that you discussed with Koelma?---That the Gazals would, I’m assuming, looking at it now some four years later I’m assuming that it was the decision of the Gazals to enter into an engagement with Tim.

And that’s what it’s got to be. You’ll see that you’re speaking of Koelma coming to Sydney to finalise the deal. Do you see that?---Yes.

20

And I can show you if necessary, but he did didn’t he?---Yes.

So you were involved in this with the Gazals, not just Nabil Senior but with the Gazal boys in Parliament House discussing this, something that you had previously discussed with Koelma, correct?---No. I think we - - -

Well, come on?--- - - - put it - - -

What’s that mean, “New plan we discussed”?---No. I think we need to put it in proper order don’t we. I discussed the matter with Nabil Senior on New Years Eve. I - - -

30

THE COMMISSIONER: But when, sorry, when, I think, the focus is on the words, “the new plan we discussed”?---Discussed, yes.

It’s being put that that’s a reference to you and Mr Koelma?---Oh, right. Right. Yes. The um, the new plan was that I had recommended him to Mr Gazal Senior.

40

Well it seems as though this was your plan?---Well, proposal, idea.

Right. So it was your idea, proposal, or plan, correct?---It was my recommendation to Mr Gazal Senior.

Well, I’m showing you documents, if you need to look at them – I was really happy we could move through this quickly. 992 you have a meeting with the Gazal boys in the afternoon of the 13th. Next morning, 8.14am there’s this text message sent to Koelma?---Yes.

Do you see it?---Yes I do.

Obviously all went well with the Gazal boys in respect of the plan that you had been discussing with Koelma. Do you see that?---Yes.

All I'm trying to show you, and hopefully you'll concede, is that you were involved in organising for Gazcorp's payments right there at its inception weren't you?---No.

10

All right. Okay. Well, I'll just make a submission about it. Have a look at page 1007.

MR HENSKENS: Again Commissioner, there's no reason for my learned friend - - -

THE COMMISSIONER: Well in this instance - - -

MR HENSKENS: - - - to say, "I will make a submission about it."

20

THE COMMISSIONER: In this instance, Mr Henskens, there is. There is a reason. And that is that the witness has rebutted the proposition. Counsel is simply saying that his submission will be to the opposite effect. He's given him the opportunity to address it.

MR HENSKENS: Well - - -

THE COMMISSIONER: Can we please, can we please just move on.

30

MR HENSKENS: He's not. It is a comment, he's not inviting an answer from the witness to a question. He's making a comment.

THE COMMISSIONER: He's putting the witness on notice that there will be a submission made to the opposite effect.

MR HENSKENS: Well - - -

THE COMMISSIONER: But let's, let's go.

40

MR HENSKENS: How does that help him.

THE COMMISSIONER: It helps - - -

MR HENSKENS: He's not asked a question - - -

THE COMMISSIONER: It helps Mr - - -

MR HENSKENS: - - - so he can deal with it.

THE COMMISSIONER: It helps Mr Hartcher to know what - - -

MR WATSON: Well I think - - -

THE COMMISSIONER: - - - adverse findings might be made against him which is the whole point of this exercise. That's why he's been given the opportunity to respond to these matters.

10 MR HENSKENS: But it's not asking him a question which gives him an opportunity to deal with it when he makes comments.

THE COMMISSIONER: I'm, he's been given a lot of opportunities. Most recently his answers have been entirely unrestrained. So let's just keep going shall we.

MR HENSKENS: But the commentary should stop - - -

MR WATSON: Oh - - -

20

MR HENSKENS: - - - in my submissions.

THE COMMISSIONER: I don't regard the last as a, as an inappropriate comment. Go on, Mr Watson.

MR WATSON: I'm so sorry, I should have shown you something on page 992?---Yes.

30 This is in your diary and the best we can get from the record is the entry was made by you personally. What do the words "proposal and quantum agreed from 1 May, 2010 – Hartcher to arrange Koelma visit," what does that mean?---Well, the second part is - - -

No, it's all one line. What does the whole of it mean?---No. I, I, you've asked a question. I'm answering it. The second part - - -

40 I didn't ask about the second part. Please, just answer the question. What does that line mean?---The line means, "Proposal and quantum agreed from 1 May, '10 – Hartcher to arrange Tim visit." If you let me explain – that's what I'm trying to do. I'm trying to answer your question.

Go ahead?---The - - -

What does it mean?---I met with Mr Gazal Senior and discussed future matters in relationship to his company on New Year's Eve. I distinctly remember it because it was such a tragic occasion as he was telling me that he expected this to be his New Year's Eve on, on this earth, he was a very

sick man which is why it sticks out so clearly in my memory and we had a long discussion and, and - - -

Commissioner, can I get this stopped, this is no good.

THE COMMISSIONER: Well, look, can I, can I just - I'm just a bit curious, Mr Hartcher?---Yeah.

We're not talking about a function on New Year's Eve?---Yeah.

10

This is, this is to do with an email on 13 April, 2010?---Yes.

Is the reference to proposal and quantum agreed from 1 May, 2010 a reference to the arrangement and the amount to be paid under the agreement between and Gazcorp and Mr Koelma? Is that what it means?---What - sorry, can I, can, can I, can I express it in my phraseology rather than just answer yes or no?

20

Yes, go on?---What it means is that Mr Gazal Senior was accepting the recommendation that he engage a Government relations consultant, that that Government relations consultant would be Tim Koelma subject to the boys being satisfied about Tim and that he had determined what the quantum he would pay would be.

Right, right?---Yeah.

Yes, go on, Mr Watson.

30

MR WATSON: So it looks as though, this is incidentally at 992 you're meeting with the two Gazal boys, it looks as though that's where the details were hammered out?---No.

MR HENSKENS: Well, I object to that.

THE COMMISSIONER: Well, it may, well - - -

MR HENSKENS: The metadata shows when that entry was entered in the diary on page 993 and its inconsistent with the proposition that's being put.

40

THE COMMISSIONER: Yes, we've been through this before. No one's as I understand it in a position to dispute that, that the metadata doesn't necessarily fix the date upon which the entry might be altered but anyway um, I think Mr Hartcher you would agree that the visit by the Gazal boys was an occasion when the agreement that you had struck with Mr Gazal Senior was in fact approved and then cemented by their visit?---Ah, the agreement had been struck with Mr Gazal Senior - - -

Yes?--- - - - and with Tim Koelma.

Yes?---Mr Gazal Senior asked me would I discuss it with the boys because -
- -

Yes, and that was what you did?---And that's what I did, yes.

And they, they agreed to the arrangement?---Well, they didn't get the opportunity to reject or agree, their father had agreed.

10 All right?---And their father was a strong patriarch. They were being essentially advised as to what the, what the ah, role of the Government relations officer would be in relation to them.

All right?---Yes.

MR WATSON: Well, okay. Well, let's have a look at Buldev perhaps. Have a look at Exhibit S9 and open it up if you would at page 2541?---Yes, I have that page.

20 I don't want to really labour this but we can through pages. If you look at 2541 contact between your electoral or electorate office and Buldev, do you see that? Got it?---Is that the ah, 10.58 call, is that the one you're referring to?

The one that says at 10.58 - - -?---Yes, yes.

- - - on 17 May - - -?---Yes, yes, I've got that.

- - - 2010 - - -?---Yes, I've got that.

30 - - - there is this contact and have a look at page 2543?---Yes.

And you'll see that there's going to be an appointment, Darren and Tim, this is in your diary?---Yes.

That's Darren Williams from Buldev isn't it?---I'm assuming so.

And Tim Koelma from Eightbyfive?---I'm again assuming so.

40 You're putting them together aren't you?---Yes.

And have a look at 2544, you'll see that following up on that Tim has said to Darren, "Thanks for taking the time to meet with me yesterday." That's the meeting which you'd teed up for him, do you see that?---Mmm.

All right. So you admit that you were the person instrumental in putting Koelma together with Buldev?---I admit I was the person who introduced Koelma to Darren Williams.

And then you'll see there a strange thing, what do you make of that?
Apparently you were present at this meeting, "Would appreciate the name
of the business entity we discussed." What discussion was there about
that?---I don't, I see that but I don't recall any discussion about the business
entity.

10 All right. Well, go to page 2563, 2563?---Madam Commissioner, can I, can
I make it clear, I think it is important, that Marke Vaile and Nathan Tinkler
were not at that meeting on 2543.

THE COMMISSIONER: I don't know that it was suggested that they were.

MR WATSON: It's never been suggested that they were.

THE COMMISSIONER: It wasn't suggested that they were?---That they
were, okay, thank you, thank you. I mean, I haven't heard all the evidence
but I appreciate it.

20 MR WATSON: Go to 2563?---2563, yes. Yes, 2563.

What does that mean, quote, "Our Newcastle friends say they are ringing
you tomorrow, all fixed." What does that mean?---Well, it means our
Newcastle friends say they are ringing you tomorrow.

Yes, I'm sorry, I was looking for something a little bit more deep than that,
a little bit more analytical if you like?---Yeah, right.

30 Could you get behind us and explain to us, Newcastle friends, obviously
Buildev?---Most likely.

Why if this is a, a real transaction between Tim Koelma and Darren
Williams or the people at Buildev, why are you involved?---Well - - -

Why are they telling you when they're going to make phone calls, Mr
Hartcher?---Because I'm the person who actually ah, introduced them to
Tim Koelma I imagine.

40 All right. Well, that's - what you say that it's because you were introduced,
you were the one they were ringing to talk about the contract with him, is
that right?---Well, they're ringing to - - -

Why didn't you tell them to ring Koelma?---I could have but I'm a polite
person, they say we're going to - - -

So I've noticed?---Well, no, once - - -

MR HENSKENS: I object, I object.

THE WITNESS: - - - once again, Madam Commissioner - - -

MR HENSKENS: I object. My learned friend is doing it again.

THE WITNESS: Mmm.

MR HENSKENS: And I don't want any more temper tantrums from my learned friend so I'm trying to help him, to stop him from doing it.

10

THE COMMISSIONER: Yes, yeah, yeah, that's helpful.

MR HENSKENS: In fairness to the witness - - -

THE COMMISSIONER: Yes, Mr Henskens, that's - - -

MR HENSKENS: - - - and to these proceedings.

THE COMMISSIONER: - - - very helpful. Let's go. Yes, Mr Watson.

20

THE WITNESS: Mmm, mmm.

THE COMMISSIONER: The Newcastle friends are Buildev and they're - -
-?---Yes, most likely.

- - - they are ringing you meaning Mr Koelma tomorrow?---Yes, yes.

Right?---That's what it mostly like means.

30 Thank you.

MR WATSON: Have a look, have a look at 2564. Sorry, I withdraw that. Something's just reminded me of something. I've actually got pretty solid information that it was Mike Gallacher who did the introduction.

MR HENSKENS: Well, I object. Solid - why are all these unnecessary adjectives being put in, why can't he just put the question instead of there being laden commentary, Commissioner?

40 THE COMMISSIONER: Well, I suppose he has - - -

MR HENSKENS: Is that assisting you, Commissioner - - -

THE COMMISSIONER: Well, I - - -

MR HENSKENS: - - - that he's doing that? Are you approving of that?

THE COMMISSIONER: He - - -

MR HENSKENS: Is that helping you?

THE COMMISSIONER: He has to, he has to inform the witness - - -

MR HENSKENS: He's getting a bit whinge-y now.

10 THE COMMISSIONER: - - - of the basis upon which he puts the question because, Mr Henskens, every time he puts a question that doesn't have a basis you complain about it so - - -

MR HENSKENS: No, he's just got to ask the question.

THE COMMISSIONER: Well - - -

MR HENSKENS: He doesn't need to put in whether it's, we've got a solid foundation for this or - - -

20 THE COMMISSIONER: Well - - -

MR HENSKENS: - - - not a solid foundation.

THE COMMISSIONER: - - - he has to, he has to say they have, they have evidence upon which this proposition can properly be put so let's go. Yes, Mr Watson, do you want to, do you want to ask whether the witness has any knowledge of whether or not Mr Gallacher made the introduction?

30 MR HENSKENS: Commissioner, I'm making an objection and I would like you to rule on whether Mr Watson is able to continue adding commentary of the kind that I've just objected to.

THE COMMISSIONER: I do not have a problem with the last statement made by Mr Watson. I note the objection, he has indicated that there is a sure foundation upon which the question should be put. It's all a matter of terminology. Go on, Mr Watson.

40 MR WATSON: There is evidence which if accepted would support the contention that Michael Gallacher actually made the introduction of Buildev to Eightbyfive and Mr Koelma. Do you have any comment to pass upon that?---I never used the term Eightbyfive, I only ever used the term Tim Koelma. If your question is on the basis that there is evidence that Mike Gallacher was involved in the introduction between Buildev and Tim Koelma then the answer to that is a most emphatic no.

All right. Well have a look at page 2564, tell me what we are to make of that?---That has – when I saw that there that has puzzled me.

I wish you would just stick to the facts and not make comments, Mr Hartcher?---Well said, Mr Watson.

Yes. All right. Well what are we to make of it?---I, I simply don't know.

I might be able to help you. Could the witness be shown Exhibit S99. You'll see that this is the small second that we discussed earlier which I suggested it had been found in a tray near your desk in your room. Do you remember that?---You suggested that, yes.

10

Yes. And that one of the documents which had a typescript on it was called "Chris Hartcher briefing paper" and on the back of it there was your handwriting?---Yes, other than the words "new regime" I accepted that.

And so if you have a look at it it says at one point there's a reference to Packnac Nathan. Do you see that?---Yes, I do.

And it's the same spelling of Packnac as in your entry?---Yes, I do.

20

It must have been don't you agree that someone's been in touch with you and told you that this was the entity with whom Tim Koelma was to contract?---Well no, I don't accept that.

All right. Well you explain to us it is then, what does it mean?---Well I did just tell you that it's looking at 2564 that's a real mystery to me as to what it means some four years after the event. Can I explain, Madam Commissioner? This document I assume was prepared in around about, it was prepared in advance of the lawyers function which was in October because that's what it relates to - - -

30

Just be careful. The document you're now referring to is the handwritten document?---Yes, I'm referring to that which is the meet and greet, Jenny Havilah, she was organising it, Smith, Gallacher and Hartcher they were the three sponsors. So I think the original part of the document related to notes I was preparing for the lawyers function. Now I've also written at different items on this sheet of paper other, other notes to myself. Like there's, there's two notes that appear about Rob Vella who's just a personal friend of mine not involved in politics.

40

Could we focus on the issue at hand?---Yes. But I'm trying - - -

You'll see the note is - - -?---No, they need to be put in context, Mr, Mr Watson. Please indulge me. I am trying to assist but I can only assist if the information that I give this inquiry is put in its proper context. Now the - I know you're referring to the Packnac Nathan entry I think that may well have been the note I made around about the same time as I transferred it across to the electronic diary. Because the lawyers function was in October I would have started preparing for that around about June of - they take

some months to organise, June, so there's to me every indication that Packnac Nathan is the note I've made on the sheet of paper and then transferred across to the electronic diary.

THE COMMISSIONER: Mr Hartcher, the problem – I accept that that's a context?---Yeah.

10 What Counsel Assisting wanted to put to you though was that note was made in the context of you being informed that that was the appropriate entity for - - -?---Yes.

- - - the purposes of the arrangement with Mr Koelma. Is that right?---Yes, that's what Counsel was putting to me.

No. But do you agree with that?---Well I agree that's what Counsel was putting to me, yeah.

20 No, no. I can agree all day with what Counsel wants to put but it doesn't help unless you agree with it because the question's being asked of you? ---No, I, I can't, I can't recall that that was in that context I made that note. It does have David Sharpe there who is connected to Buildev, it does have that phone number which I have since checked is the switch number of Buildev and it does have Packnac Nathan but that, I can't recall that that was the name been given to me as the entity.

MR WATSON: Well what else could it be?---Well it – one of the biggest issues that as every Opposition knows is looking for potential donors. It could well have been a note by me of a potential donor for the Hunter area.

30 Who would that be Packnac?---Well Packnac Nathan whoever they were, I would have had to try and make some further inquiries.

Whoever they were?---Yeah.

Mr Hartcher, are you telling us you didn't know who Nathan would be? ---Well Nathan I now assume is Nathan Tinkler.

40 So you're just making to potential donors I'll just type in these words Packnac Nathan but I've got no idea who they are?---No.

Is that what you're doing?---No, you – no.

Well why are they, why would Packnac Nathan be potential donors? ---Because a lot of – well you are always looking for potential donors whom you can invite, you try and get the biggest list you can of potential invitees to your functions.

Well where do you think you're getting Packnac Nathan from?---Well that's a mystery. I think - - -

But you see the context of all of this don't you?---The context, I see the context and I think it could have been from Davie Sharpe. It would be unfair for me to actually say that but it looks as though the person most related to is David Sharpe.

10 Well have a look at the same time you have those documents open at Exhibit S48?---Yes.

You see here - - -?---Should I be looking at, at this document?

I mean I did want you to keep that open at page 2564. I want you have - - - ?---Sorry, sorry, sorry, which document I keep - - -

Look, open now Exhibit S9 at page 2564?---Yes, okay. Yes.

20 Now have a look at the same time at Exhibit S48, it's an email chain, it starts on the second page?---Yes.

In particular the entry on 2 June 2010 made by David Sharpe, in response to the question which entity will I give Mike Gallacher he says as follows, "Ask Nathan as I think it's best to come through Patinack, get right away from property, mining, infrastructure." Do you see that?---I do.

30 Now does that help you at all as to the identity of the person from whom you got this information on Exhibit S9 page 2564?---Does that help me, what, looking at the email chain?

Yes?---S9 page – oh, does that help me in relationship to this document?

Yes?---Mike Gallacher had no involvement at all - - -

THE COMMISSIONER: We're not worried about that just yet?---Yes, right.

40 What we're trying to ascertain is whether or not this email from Mr Sharpe allows us to comfortably draw the inference that that was where you got the name of the entity from that you then wrote on the document that has been shown to you as part of, as part of those notes.

MR WATSON: Yes. Putting together all three S99, S48 and S9 page 2564 you've got to agree you must have got that information from Darren Williams?---Well or possibly David Sharpe.

So sorry, I shouldn't have said Darren Williams I got the names mixed up? ---Yes.

I meant David Sharpe?---Yes.

And it must have been in this context don't you agree?---Well - - -

Of selecting an entity that would be the contracting party with Eightbyfive?
---Well that's what it would appear, yes.

10 All right. And then if you, if you now look at S9 that's the folder, S9 page
2565 you can see that under the heading "Friends" Tim Koelma is asking
you about or telling you about friends and North that's Buildev isn't it?
---Yes, most likely.

And then if we go forward just a little to page 2572 we can see four email,
text messages passing between Tim Koelma and Aaron Henry?---Yes.

And one which is sent at 9.48am on 9 June 2010 reads this way, "CPH
wants confirmation, the invoice has been sent to Patinack Farm"?---Mmm.

20 What's that about?---Well that doesn't appear in my, um - - -

We've been through this . You must be aware of it. It's an artefact of the
printing process that it was trimmed off. It's "Chris Hartcher wants
confirmation, the invoice has been sent to Patinack Farms." I can get you
the original text message if you need it?---No, I'm not, I - it's a - no, go on.

Well, I'm asking what is that about, Mr Hartcher? I'm trying to give you an
opportunity to give your account?---To give my, sorry Mr Watson.

30 Why were you - - -?---Give my account of what?

- - - telling Mr Henry you wanted confirmation that Mr Koelma had sent an
invoice - - -?---Oh.

- - - to Patinack Farm?---Very clear. Very clear. The reason why I
introduced Tim Koelma to Buildev was to encourage them that, or to make
it clear to them I was no longer involved in planning, I was no longer
involved in projects that they had in the Hunter, and that they would be
better off engaging someone to deal with the Opposition on a Government
40 Relations basis.

Well what's that got to do with Patinack Farm?---Once, well I'm, please,
please let me finish. Ah, once they had decided yes, that wasn't a bad idea
they had to determine how they were going to engage Mr Koelma. Now,
that, that being determined I wanted to make sure that the engagement had
been finalised so that my ongoing connection with them and their future
projects would be substantially, hopefully reduced. I was not Shadow
Planning. I was Shadow Inter-Governmental Relations. I had nothing to do

with the future development of Newcastle and I wanted Buldev to clearly understand that. If they had a Government Relations person then they could refer to that Government Relations person and not constantly try and trouble me.

Well, just tell me how did you know about the involvement of Patinack Farm?---Well, that I have to apologise to you, Madam Commissioner, because I at my earlier advice said I had never heard of Patinack Farm, and I had no recollection of hearing of Patinack Farm until very recently. This document suggests that at some stage I did become aware of the existence of Patinack Farm?

How did you become aware?---Well that I don't know.

THE COMMISSIONER: I understood a short time ago, Mr Hartcher, that you in fact agreed with Counsel Assisting when he said to you that the email that you were shown from David Sharpe to Mr Williams suggests that you became aware of Patinack Farms by way of information from David Sharpe?---Well that's what I was inferring, yes.

Right?---Yes. But I, I could not look at you, Madam Commissioner, and say that that, four years ago is my absolute recollection. But it is my inference from what the documents that have been put to me. The most likely assumption is that it came from David Sharpe.

Right?

MR WATSON: So, so it's clear to you I'm suggesting to you that that puts you right at the heart of a corrupt scheme to extract donations for a prohibited donor and to wash them through Eightbyfive?---No. Not at all.

All right. Okay. Well, you were so involved you were even busy chasing up fees on behalf of Eightbyfive weren't you?---No.

No?---No. On - - -

You must have seen those text messages?---I've seen those texts on two occasions or so. I passed on to Darren the fact that Tim was complaining his invoices hadn't been paid.

But what was the role that you were adopting? Previously you said you'd worked as a post boy. What role did you have here when you were acting as a kind of debt collector?---Oh really, Mr Watson. Ah, the ah - - -

Well tell me. What role did you think you were taking on?---I was, I was acting as a friend and a counsellor to Tim ah, a person whom I had referred to, to Buldev whom I believed until very recently when I've seen other

documents, Buldev were his client and that ah, I was, I, I was simply assisting him as a person and as a friend and as a counsellor.

And, I don't want to go to the detail but people can see that exhibit S10, page 2795, 2801, through to 3, and they should also look at page 2799. See, what I suggest to you is that you were chasing up the money, the money which was going to filter through to finance, in this instance Darren Webber's ability to campaign?---I absolutely reject that.

10 All right. Now, why were you calling them friends? Why not call them by their names? Why were they friends?---Well, the relationship – who are we talking about? The Newcastle - - -

Well, everybody. The friends up north, out west, and in the city. We know who they are?---Yes.

The Gazals are the Sydney friends. Mr Di Girolamo's your western friend. And Buldev's your northern friend. Why are you calling them friends?---It's a general term. The Gazals - - -

20

A general term?---No. I'll explain. Please, let me finish. The Gazals were friends of mine. Nabil Gazal Senior was a very dear friend and his death was a very sad, sad occasion.

Oh no, please, spare me.

MR HENSKENS: I object.

MR WATSON: Really, we've heard all about that.

30

MR HENSKENS: I object?---No, you haven't heard all about that.

MR WATSON: Oh well, I don't - - -

MR HENSKENS: That is very disrespectful, Mr Watson.

40 THE COMMISSIONER: Look, we really, we really, we really have heard before that this, that it was a distressing event. We don't need to hear it again. We just need confirmation of the fact that when the witness is referring to friends he's referring to the Gazals, to Buldev, and to - - -?---Mr Di Girolamo.

- - - Mr Di Girolamo?---Yes.

MR HENSKENS: But my learned friend should not be mocking the witness - - -

MR WATSON: I'm not.

MR HENSKENS: - - - when he's giving an answer - - -?---Oh, yes you are.

THE COMMISSIONER: He's not, I don't think he - - -

MR HENSKENS: And that's what he was doing.

THE COMMISSIONER: I don't think he was - - -?---You were.

10 - - - mocking the witness. I think he was expressing a sense of frustration. And I'm getting pretty close to that myself. If we don't, if we don't move this along I think we might need to just take an early adjournment. So I'm prepared, Mr Watson can you keep going till half past 3.00 and I think we're going to call it a day.

MR WATSON: I'm going to try and finish. Look, what I want to do is put something further. This is the purpose behind Eightbyfive, you did it so you could fund Tim Koelma to come back and work for you on a more or less full-time basis in the key marginal seats on the Central Coast. That's what you did, isn't it?---No.

20 And you did it also so you could fund Chris Spence in his seat so he would be free to campaign, isn't that right?---No.

And Webber, so he was free to campaign in his seat, isn't that right?---No.

And you also did it to avoid the property developer prohibition, isn't that right?---No.

30 Can I just show you a document. Could you look at exhibit S3 at page 691?---Can I have that page again, thanks?

691. I asked you before whether Koelma was working for you full-time?---Yes.

You'd know about this document that I'm showing you now?---Yes.

It's a reference you wrote for Koelma - - -?---Yes.

40 - - - in August, 2010?---Ah hmm.

If we are to believe you and Koelma he wasn't working for you but rather he was a freelance consultant at Eightbyfive, correct?---(No Audible Reply)

Correct?---Sorry, put that again.

If we are to believe Koelma was working as a freelance consultant with his own firm Eightbyfive, correct?---Yes.

And you'll see this is directed to the Director General of Taipei Economic and Cultural Office, is that right?---Yes.

Is that a serious letter or a joke letter?---No, it's a serious letter.

And have a look at the second paragraph where it says that Tim's worked in my office?---Yes.

10 He's currently - - -?---No, you left out three crucial words, Mr Watson. Why don't you, why don't you put the whole story, "in varying capacities."

Oh, I'm so sorry?---Yes, Mr Watson.

And what about this sentence too?---Yes.

"Prior to returning to my office"?---Yes. Yeah.

20 What did you mean there, Mr Hartcher?---Why did you leave out three key words, Mr Watson?

Oh really. Come on, read on Mr Hartcher?---I'm reading on.

Read on?---And I'm wondering why you only selectively quote certain - - -

Mr Hartcher - - -?---Okay.

30 - - - you have got no intention of telling the truth, do you?---I am writing the reference because he has worked in varying capacities as a work intern, as a volunteer, and as a paid employee.

Mr Hartcher, I'm going to go further and suggest that not only did you take money from prohibited donors but as a result of taking that money you, or people in your office either met with those donors or intervened on their behalf, or did things for them to help them personally. Do you accept that?---No.

You did that for Peter Hesky didn't you?---When?

40 Commissioner, I'll just give the references to save time. S29, 3809, 3810, 3811. Mr Hartcher, you did it for Ted Campbell didn't you?---No.

S29, 3809, 3811. You did it for Tom Cudina didn't you?---No.

S29, 3811. You did it for Tim Gunasinghe didn't you?---No.

S29, 3812. You did it for Doug Sneddon didn't you?---No.

S29, 3812. You did it for Laurie Denton didn't you?---Don't even recall who Laurie Denton is?

S29, 3813. You did it for George Fernandez and his firm Tesrol didn't you?---No.

S29, 3815, 3817, 3819 through to 31. You did it for Paul Levick didn't you?---No.

10 S29, 3842. You did it for Robert Osborne didn't you?---No.

S6, 1659, you did it for John Klumper and his business Brentwood Village didn't you?---No.

S10, 1967 through to 1976 and also 1977, you did it for Yeramba Estates for Scott Johnson didn't you?---What are we talking about?

Favours, somebody, you, your office, meeting with people, intervening on their behalf or doing them favours?

20

MR HENSKENS: What favours, what favours, Commissioner? Can he put - - -

MR WATSON: Well, he's denied it.

MR HENSKENS: Can he actually put some specific instances of favours to the witness.

30 THE COMMISSIONER: Intervening on their behalf, doing favours or, or disposing himself to the, to the favourable treatment of those persons. Anyway.

MR HENSKENS: What does that mean, Commissioner?

THE COMMISSIONER: He's denying it all, Mr Henskens.

MR HENSKENS: But what does it mean? What's actually being put? I've been sitting here for three weeks - - -

40 MR WATSON: (not transcribable)

MR HENSKENS: - - - trying to wait, wait and here what these so-called favours are.

THE COMMISSIONER: Again, these are matters for submission.

MR HENSKENS: Well, no, they're not.

UNIDENTIFIED SPEAKER: No, no, there's evidence.

MR HENSKENS: The witness is to be given a fair chance to deal with it.

MR WATSON: Okay. Well, I'll put it.

THE COMMISSIONER: Look, I'm sorry - - -

MR HENSKENS: It needs to be articulated.

10

THE COMMISSIONER: Just a minute. Until that last question was asked there had no 10 references, all of which the witness had denied and nobody had said boo so I am assuming that the witness knew exactly what was being referred to because he denied the proposition each time.

THE WITNESS: No, Madam Commissioner, can I say - - -

20

THE COMMISSIONER: Well, if you didn't understand, Mr Hartcher, then you couldn't have denied the proposition?---Well, I asked in respect of Hesky what evidence and he - Mr Watson then just repeating a, a list of names. I did not do any favours for any persons improperly, I deny that, but I would like to know just what Mr Watson reckons are the favours I'm supposed to have done so that I can - the whole purpose that you said, Madam Commissioner, at the beginning was so people could restore their reputations. What Mr Watson does is simply submit a series of allegations and then not submit evidence to support them - - -

30

Well - - -?--- - - - as in this particular case where he is alleged impropriety against me.

Mr Hartcher, ultimately that's a matter for me and I have to wait till the end of this inquiry and that means well after August until all of the evidence is in before I make a decision one way or another. If there's no evidence of any attempt to either do favours of any kind or predispose persons to doing favours or predispose persons to giving favourable treatment, well, then the submission by Counsel Assisting fails but at the end of the day if he needs to put his case, he needs to put his case.

40

Go on, Mr Watson.

MR HENSKENS: In my submission, Commissioner, reading out a list of page numbers in the way in which my learned friend has done does not fairly put to the witness what allegation of favours is being made against him because I can't understand it from the material and he's certainly not giving any specificity whatsoever in the way in which he's putting it to the witness.

THE COMMISSIONER: Well, I thought that the attempts to move the material and to put on record those exhibits that refer to the propositions that Mr Watson is putting was to avoid any more long, any more detailed evidence on this matter given that the witness is going to deny each and every proposition that he's put. But, Mr Henskens, if you want, if you, if you want Counsel Assisting to go chapter and verse through all of these references in fairness to the witness well, then, that's what we'll have to do.

10 MR HENSKENS: We will. Can I, can I just give it - - -

MR NEWLINDS: Commissioner, can I say something? Commissioner, can I say something? To the extent, Commissioner - - -

MR WATSON: Mr Sinodinos has no interest in this, can we move on?

MR NEWLINDS: Well, no, no, no.

20 THE COMMISSIONER: Well, he hasn't, he hasn't, he hasn't, Mr Newlinds.

MR NEWLINDS: Well, to the extent that Mr Hartcher is apparently said to be the mastermind of something and the inquiry is seeking to inquire - - -

THE COMMISSIONER: Actually, I don't know that he is said to be the mastermind, I think there might be a few masterminds but anyway let's - - -

MR NEWLINDS: Right, yeah, but - - -

30 THE COMMISSIONER: - - - where do we go?

MR NEWLINDS: Because I'd like to know what it is and maybe it doesn't affect my client but I don't understand what it is.

THE COMMISSIONER: Well, if doesn't affect your client you don't need to worry about it.

MR NEWLINDS: Well, but I don't know if it affects my client because I don't know what it is.

40 THE COMMISSIONER: Mr Watson has says it doesn't affect your client.

MR NEWLINDS: All right.

MR HENSKENS: Well, can I, can I just give an example of the problem, Commissioner, if we call up page 3812 which was the matter which was supposed, said to establish favourable treatment for both Mr Gunasinghe and Mr Sneddon - - -

MR WATSON: No, you have to (not transcribable)

MR HENSKENS: The document, the document - - -

MR WATSON: Sorry, that's not right, you should have sat him down, Commissioner, because we've got to keep moving forward.

10 MR HENSKENS: Can, can I make a submission? Can I make a submission, please, Commissioner, without being interrupted by my learned friend?

MR WATSON: Well really.

THE WITNESS: Oh, without me being given the chance to present my case.

THE COMMISSIONER: Can I have everybody just be quiet so that we can get through this? Go on.

20 MR HENSKENS: The, the material in respect of the favour for both Mr Gunasinghe and Mr Sneddon at page 3812 is a meeting note which is from 16 May, 2011 from Ray Carter to Sandra Calabro saying, "Hi Sandra, can you put Tim Gunasinghe and Doug Sneddon to see CPH when he is in the electorate office after the 20th." Now that's supposed to give Mr Hartcher notice of the specificity of allegations that he has corruptly given favours to these two gentlemen - - -

THE COMMISSIONER: I think - - -

30 MR HENSKENS: - - - and that's the specificity that was given to the witness.

THE COMMISSIONER: I think Mr Henskens, what that refers to and what Counsel Assisting has previously referred to is that the donations have bought access. Now whether or not that access would have been granted without the donations is a matter for submissions but that is the context within which those references were put.

40 MR HENSKENS: And that's all it is so it's said that there's a meeting between a local Member and his constituents is a corrupt favour which - and this Commission is dealing with serious, matters of serious corruption under its Act and its said that meeting your local Member is an instance of giving corrupt favours. Is that the position, Commissioner?

THE COMMISSIONER: It might, it might be a question of getting access that would otherwise not be granted so swiftly or it might be a case of granting access where otherwise access would not be granted because to do

so might be seen to be falling foul of the prohibited donor rules, I don't know.

MR HENSKENS: Access is falling foul of prohibited donor rules?

MR WATSON: All right. Well, I'll elaborate for my learned friend.

THE COMMISSIONER: I don't know, Mr Henskens. All I'm saying is it's a question of access.

10

MR HENSKENS: Yes. And, and, Commissioner, you don't know and I don't know and Mr Hartcher doesn't know but his reputation is being trashed in the generalities without any precision being put to him about what the allegation is and that is most unfair to him.

UNIDENTIFIED SPEAKER: Most unfair.

THE COMMISSIONER: Finished?

20

MR HENSKENS: Yes.

THE COMMISSIONER: Mr Watson, I think it might be necessary, unfortunately, to go back through these references and to put in each case to the witness what you say is the access, favour or otherwise that has been purchased by the moneys that have been donated.

30

MR WATSON: So that it's plain, Commissioner, I had asked whether - no, sorry, what I suggested was that amongst those people who donated they got access which was just a hearing, it might have been by somebody in the office, it may have been a meeting, it may have been an intervention on their behalf and I tried to roll it up to save time. I apologise for that.

In the case of Peter Hesky you met him and you dined with him, didn't you, several times?---No.

All right?---No, you've heard his evidence that 30 or 40 years we had lunch about three or four times.

40

All right. Okay?---Go to the transcript, Mr Watson.

Okay. But - - -?---Well, why do you keep putting inaccurate and uninformed submissions to the Commissioner?

THE COMMISSIONER: Mr Hartcher, can you please stop making speeches. You are there to answer questions?---I am, I am.

Your Counsel's doing a very good job of making - - -?---He is.

- - - speeches without you?---Thank you, Madam Commissioner.

Go on, Mr Watson.

MR HENSKENS: I object to that, I am making submissions, I am making submissions - - -

THE COMMISSIONER: Please, Mr Henskens, I just want to finish.

10 MR HENSKENS: Well, no, it is unfair to characterise my submissions as making speeches.

THE COMMISSIONER: Well, I'm sorry, you have made speeches. You've said a number of times how reprehensible it is that your client's reputation is being trashed.

MR HENSKENS: Yes, yes.

THE COMMISSIONER: That is a speech, that is not a submission.

20

MR HENSKENS: It is a submission.

THE COMMISSIONER: No, it is not.

MR HENSKENS: It is a submission as to - - -

THE COMMISSIONER: You can make a - - -

30

MR HENSKENS: - - - the fairness of what is taking place in this - - -

THE COMMISSIONER: You make a submission based on - - -

MR HENSKENS: - - - Commission.

THE COMMISSIONER: - - - whether or not questions are appropriate but in terms of submissions as to what this inquiry might find at the end of the day that is not something that you need to do now, you do it at the end of the process.

40

MR HENSKENS: No, if, if, if the procedure of this Commission is unfair to my client I must make a submission to you and draw it to your attention now and that is why I am doing it.

THE COMMISSIONER: And you have done it and Mr Watson is going to have to go back.

MR HENSKENS: Yes, and I am not making speeches. I am making submissions, I am a barrister making submissions.

THE COMMISSIONER: I had noticed that that you were a barrister, Mr Henskens, and I take your point.

MR HENSKENS: Well, you - - -

THE COMMISSIONER: But I'm sorry, I have made a ruling. You will please - - -

10 MR NEWLINDS: What is it?

THE COMMISSIONER: - - - resume - who said that?

MR WATSON: That was Mr Newlinds (not transcribable) press that.

MR NEWLINDS: I did.

THE COMMISSIONER: Mr Newlinds, excuse me, I've made a ruling.

20 MR NEWLINDS: Well, what is it? I don't - I'm, I'm lost.

THE COMMISSIONER: All right. Well, I'll tell you what it is, Mr Newlinds, and if anybody wants to question my rulings again then they can face the consequences. I have authority over this inquiry. Do not question my rulings.

MR NEWLINDS: I'm asking what the ruling is.

30 THE COMMISSIONER: My ruling was that Mr Henskens has made his submissions and part of his submissions traverse beyond that into a general speech about this inquiry trashing reputations.

MR NEWLINDS: Right, I understand.

THE COMMISSIONER: Now I want us to proceed. Yes, Mr Watson.

MR WATSON: I'll give you some examples. With Angelo Maggiotto, your office, became a conduit of representations he wanted made with Brad Hazzard, that's right isn't it?---(No Audible Reply)

40

Isn't it? Are you denying that?---Can I see the documents?

Well, I don't want to go to that sort of material.

THE COMMISSIONER: It was a perfectly straight forward question. Can we do, do your best, Mr Hartcher, to answer the question?---Well my office makes hundreds of representations, Madam Commissioner, if there is

something of a particular nature in relationship to a representation surely I should be allowed to see the document.

MR WATSON: Well - - -

THE COMMISSIONER: Do you want to ask the question again, Mr Watson?

10 MR WATSON: No, Commissioner. I'm happy just to do it this way and try and move forward. Bruce Johnson and Eric Stammer from Yeramba Estates after they had made a donation to the Central Coast campaigns you saw them about their interest in development matters on the Central Coast didn't you?---I was not aware they had made a donation to Central Coast campaigns.

And Scott Johnson for example the son of Bruce you provided him with a reference which he could use in court didn't you?---That is a normal practise for a Member of Parliament.

20 See what I'm suggesting with these people and it's as simple as this is that you can have ordinary things where you see a developer in your capacity as a Local Member but I'm suggesting this thing here is that each and every one of these men they were men who made donations to the Central Coast campaign. You understand that's what I'm alleging?---Well I don't accept the premise they have made donations.

All right, but that's okay. And John Klumper you saw him after he'd made a donation, saw him about his business Brentwood Village didn't you? ---No, I did not see him about his business at Brentwood Village.

30 And, and Ray Carter in your office - - -?---No, look, no. Madam Commissioner, you see when I try and explain what I did see and didn't do Mr Watson just keeps going on. (a) I don't accept the fact that I was aware of Mr Klumper making a donation, (b) when I did see him I saw him at his home, he was very ill and he did not wish to discuss with me his development at Brentwood Village, he wanted to discuss with me something else.

40 All right. Well - - -?---Which was appropriate for me as his local elected Member of Parliament.

All right. Well Robert Osborne from the Patonga Beach Hotel, Mr Carter was helping him out with some planning problems that he had at Ettalong wasn't he?---Is that me or Mr Carter?

And Paul Levick he was - - -?---No, is that me or Mr Carter?

I've just – I would have thought when I said Mr Carter you would have been able to absorb that I was talking about Mr Carter?---Well I can't answer for Mr Carter.

I did premise all of this by saying that after receiving donations a premise you don't accept that people in your office either saw these people or did things for them or you saw people and did things for them?---I don't answer for other people in my office when I'm not there, I was away as Minister.

10 Robert Osborne's from the Patonga Beach Hotel and he had a development at Ettalong didn't he?---I understand so, yes.

And Paul Levick he's a developer?---Well I'm not sure - - -

Did you speak to him about his developments after he'd, after the election? ---No, I, I'm not sure that he, (a) I'm not sure he is a developer, I know he owns land whether that makes him a developer or not I'm not sure.

20 Earlier today you said you were sure that he was developer actually?---No, I don't think I did say that.

All right. Well Jorge Fernandez from Tesrol, your office dealt with things on his behalf didn't you?---(No Audible Reply)

Isn't that?

MR HENSKENS: Your office isn't you. Your office didn't you.

30 MR WATSON: All right. Well I'm not sure that I even need to go to those matters, Mr Hartcher, I'm trying to move forward. One thing you did do for sure is you did do a number of corrupt favours on behalf of Australian Water Holdings didn't you?---No, I did not.

Have a look at Exhibit S2, and open this up at page 503, 504. You'll see that 503 is an email from Koelma to Spence?---No, I'm not there, I'm not there yet, Mr Watson.

All right so sorry?---Yes, 503 I'm at.

40 And you'll see that that's an email from Koelma to Spence and you'll see at 504 their draft questions for you to ask on notice. Do you see that?---Yes.

And you'll see at 505 just at the same time there's telephone exchanges between yourself and Nick Di Girolamo. What is that about?---Well there's SMS's is that what you're referring to?

Well they're still phone exchanges, SMS's whatever. What's all that about?---They're four years ago, four years ago this week I've no idea.

All right, okay. Well have a look at 507 and then 508?---Yes.

You asked those questions?---Yes.

Just read them with me. “In relation to question 1 what research had you done to determine whether there was any truth in that suggestion”?---Are we looking at have staff at Sydney Water?

10 Yes?---That was information supplied to me by Mr Koelma.

Was Mr Koelma working for you at the time?---No, he was assisting as a volunteer.

Did you know that Mr Koelma had a contract with Australian Water Holdings at the time?---I knew he was under, yes, I knew he was working with - - -

20 Did you know that those questions were ones which could assist Australian Water Holdings in their battle with Sydney Water?---No.

Well what did you do to try and determine whether there was any truth behind that question?---The purpose of asking questions in Parliament is to seek information.

No. What did you do to find out whether or not there was any truth in that, it's pretty serious stuff?---It's, and it's seeking information which is the role of an Opposition Member of Parliament.

30 But what did you do to try and find out whether there was any basis for asking such a question?---I was, I was advised that there was information that made that allegation and I therefore put that up in the form of a question.

Advised by whom?---I just said Mr Koelma.

Who was working for Australian Water Holdings?---Yes.

40 And who you knew were in dispute with Sydney Water didn't you?---No, I wasn't aware of that at that stage.

You weren't aware of that that's what you're saying?---Well not – I'm, I'm pretty sure I wasn't aware of that stage. I wasn't involved in – my role was the Shadow Minister for the public sector.

Okay?---Looking at the correct operation of Government departments. I wasn't Shadow Minister for Water Utilities at that time.

There we're reading between the lines you're suggesting that allegations had been made that someone at Sydney Water a general manager had provided preferential commercial arrangements - - -?---No.

- - - for significant contracts?---I'm asking the question.

Well, right. Well are you saying that - - -?---That's what Oppositions do, Mr Watson.

- 10 Even if there is no basis for it whatsoever?---Well you don't know – the way Oppositions work is they get huge amounts of information which they try and distil and if there's some value in it they put on questions on notice in the Parliament to get that information.

I'm suggesting you did it because you were trying to help Mr Di Girolamo in return for the money he was paying to Eightbyfive?---No.

Do you accept that?---No, I don't.

- 20 Close that volume up and could the witness be shown Exhibit S3. Open it up at page 585. We know that this is material written by Mr Di Girolamo which it was suggested could be used in a Government press release, sorry not a Government press release in an Opposition press release. Will you accept that for the moment?---Well I'm reading, reading the document.

All right?--- All right, I've read the document.

And then have a look at 586 and 587?---Yes.

- 30 This is at the top of the page, you writing to Koelma accepting from him a draft press release. Do you see that?---Subject to coordination of the Leader's office, yes.

And on a subject which could if it was released assist Australian Water Holdings. Don't you agree?---No, I don't agree.

All right?---It – no, no.

- 40 No. You don't need, don't need to give reasons?---It would assist the release of land for home buyers.

Okay?---Yeah.

And could that incidentally - - -?---that is the role of Opposition, Mr Watson.

To assist home buyers?---To assist home buyers, get land.

Well you misunderstand my question. Could it also incidentally assist Australian Water Holdings?---Well it doesn't appear on the face of the document whether it would assist Australian Water Holdings or not.

All right. Well we'll read ourselves?---It relates to infrastructure development.

And at 590 you sent it didn't you?---I'm sorry?

10 MR WATSON: At 590, you sent it. You issued the press release?---That is the press release on 590, yes.

And what I'm suggesting to you is that you did that again just to assist Mr -
--?---I - - -

- - - Di Girolamo in the context - - -?---I - - -

- - - of him paying money to Eightbyfive?---I reject that. I was acting
appropriately as a part of the State Opposition in conjunction with the
20 Leader's office to implement Government policy for the release of
Greenfield sites for homebuyers.

Have a look at page 513?---Well, I haven't go that volume.

Sorry, it's in volume S2. I need to have, keep S3 there because we'll
probably come back to it. Have a look at S2 at page 513? Here we can see
- - -?---No, no. I'm not there yet.

30 It's on the screen?---Well, I'm looking at it here.

All right?---Yes. 513. It's a list of telephone calls, is that, yeah?

That's right. And you'll see the contact between you and Heath Aston?---
Yes.

And then if you go to page 516 the first is a text message sent by you to Mr
Koelma?---Yes.

40 "Sun Herald tomorrow has your water story"?---Yes.

What are you doing putting in Mr Koelma's story into the Sun Herald?---
Because he assisted in drafting the, the press release.

Well it wasn't a press release. This is an article about corruption in Sydney
Water?---Sorry, which one are we looking at?

This is, this is actually more specifically it's an article about or based upon
an FOI release which it is suggested showed that Sydney Water doctored an

Auditor General's report. Do you remember the issue?---Where are we at, sorry? You'll have to refer me to the page.

Page 516?---Yeah, I'm at page 516.

All right. That's what the story's about. The Sun Herald's - - -?---What, "The Sun Herald tomorrow has your water story"?

10 - - - story by Heath Aston. We'll start again?---Yes. Where's the water story?

It's a Sun – just listen to the question. Well, you tell us what were you sending it about?---Well, you're, you're asking me to comment on a water story and I'm asking you to show me which is the water story.

THE COMMISSIONER: Well he was about to tell you and you, you - - -?--
-Okay.

20 - - - started to speak over the top. It's a story by Heath Aston which discusses alleged corrupt conduct by senior officials at Sydney Water?---
Oh, is this the one at page 518.

MR WATSON: No, 522 is a better copy of it?---522. Okay. Yes, I see 522.

Right. You were contributing to that article as a payback to Mr Di Girolamo for the money he was paying to Eightbyfive weren't you?---No, I was carrying out my responsibilities as Shadow Special Minister of State.

30 And it was just a coincidence that it was coming through to you by Tim Koelma who was working by, working for Australian Water Holdings at the time, is that right?---Information came, help, yes, with Tim Koelma.

Just a coincidence?---Well, I reject that. I have a responsibility as a Member of Parliament and as a Shadow Minister in that area to expose Government incompetence and Government waste. That responsibility I was discharging.

40 And it was just - - -?---If I received some of that information from Mr Koelma then that is simply my good luck.

And it was just a coincidence that it was of great - - -?---I reject the idea that it was a coincidence.

And it was just a coincidence that it was of great benefit to Mr Di Girolamo for whom - - -?---Well I'm not aware that - - -

Would you mind letting me finish?---No. Please keep going.

It was just a coincidence you would say that this article was something which was of great assistance to Mr Di Girolamo?---I'm not aware that it, it was but - - -

10 Assume it was?---Well, no I don't accept, I accept very few of your assumptions, Mr Watson, let me tell you. Ah, the, what I, all that I, what I can tell you about this document is that it was a press release exposing Government incompetence, or by a Government agency which was part of my responsibility as a Shadow Minister.

THE COMMISSIONER: Mr Hartcher, you must have at least, at this stage, that is the stage of the publication of this article been aware of the significant dispute between Australian Water Holdings and Sydney Water?--I don't really think I was. I wasn't involved in it at all, Madam Commissioner. I was out of Sydney Water Utilities, Shadow Water Utilities. Ah, I'd, I'd ceased that in December of 2008. It was a long time before.

20 So you had, you had absolutely no idea what the - - -?---Well - - -

- - - contractual relationship was like between Sydney Water and Australian Water Holdings?---No. No. I was well and truly out of it.

30 Well, can I just ask you this then, you must know by now - just getting back to the assumption that Mr Watson just put to you you must know by now surely that this coincided with a period where Australian Water Holdings and Sydney Water were locked in a very bitter contractual dispute about the construction of a deed and the opportunity, or which Australian Water Holdings claimed was a monopoly to develop the North West infrastructure?---Yes, I'm, I am certainly aware of that now.

So you're aware of that now?---Operation Credo made that very clear.

Right. So Mr Watson's assumption to you was that this article would inevitably favoured Australian Water Holding's interests, knowing what you know now?---Knowing what I know now, yes.

40 Right?---But I can't and I don't agree that that was any motivation or knowledge of mine at that time.

MR WATSON: But it seems odd considering you were saying that you're long, long out of the field that you were the one who was giving the quotes to Mr Aston, don't you agree?---I was Shadow Minister for the public sector.

All right. Well - - -?---It's a public sector agency.

Could you close that up and reopen volume S3 at page 571. I think it's the first page from memory?---Sorry, where are we at?

571. It's the very first page?---Oh, right.

You see, this is a, this is a further article by Mr Aston critical of Sydney Water just at a time when coincidence would establish it that Mr Di Girolamo has locked horns with Sydney Water. Do you - - -?---Yes.

10 You did it, you participated in this. You gave quotes to Mr Aston didn't you?---Yeah I, well I, there's a, what, in the very last line there's a quotation from me, or - - -

And you did that because you were paying back Mr Di Girolamo for his money weren't you?---No. I, I, no, look, no.

All right, well now - - -?---No. No. Hang on. No in both instances. I was not receiving money from Mr Di Girolamo and I did not do this as a payback to Mr Di Girolamo.

20

All right. Dealing now with Buildev you had lots and lots and lots of regular and continuous contact with the people from Buildev didn't you?---Well, I have some contact with them.

All right. So some contact. You accept that, is that so?---Yes.

And you knew at all times that they were in a contract with Tim Koelma didn't you?---From ah, June of 2010, yes.

30 Did you T up meetings so that Buildev could meet Mr Stone and Mr Beard and Mr O'Farrell?---Is there a document you wish to refer me to or - - -

You're pulling my leg aren't you? I mean, it's a yes or no answer?---No, hang, there's, this is things that happened years ago.

All right, don't worry about it?---Yeah.

40 I've given you a chance. Now, in terms of the Gazals - - -?---No, you haven't given me a chance because I asked you for the document and, and you then just simply moved on.

S10, 2764, 2788, 2826, 2828. I'm not going to show them to you, your barrister can take you to them if he picks and chooses to do so. And for the Gazals you always supported them in their campaign to have Orange Grove reopened as a full site, is that right?---That was the Coalition policy.

I think that's (not transcribable). Oh, no. That's another matter. Thanks, thanks, Mr Hartcher?---Now Madam Commissioner, the way that last question if phrased is that it was so I was supporting the Gazals. The - - -

THE COMMISSIONER: Yes, you said it was Coalition policy?---It was Coalition policy from 2004 for the reopening of Orange Grove.

10 Yes?---And ah, that is a clear cut public record issue on the Parliament of New South Wales. The implication that Mr Watson makes the way he then asks the question and then sits down I deeply resent.

Oh well look, he's just getting to the end of the questions. You surely don't want him to go on?---I am happy to bat on with Mr Watson all day.

No, you'll have to answer questions from someone else. Who wants to go first in relation to Mr Hartcher?

MR ALEXIS: I'm happy to, Commissioner.

20 THE COMMISSIONER: Yes. Yes. Yes, Mr Alexis.

MR ALEXIS: Thank you, Commissioner. Mr Hartcher, when Counsel Assisting opened the inquiry and at 2640 of the transcript he suggested that by making payments to Eightbyfive Mr Di Girolamo and the company AWH, but particularly Mr Di Girolamo wormed his way right into the heart of the Liberal Party. That was what was put in opening. I want to ask you a question about it but can I also just provide you this by way of, the first payment that Mr Di Girolamo caused the company AWH to make to
30 Eightbyfive was on 21 April, 2009. Now is it the case as far as your recollection allows you to tell us that Mr Di Girolamo's association with the Liberal Party was already well extant by April 2009?---Very well established.

And should we understand that as far as your recollection allows you his involvement with the Liberal Party was at least before the State election in 2003?---Absolutely.

40 He was then the head of the fundraising team to support Mr Brodgen who was then Leader of the Opposition?---Whom he knew from St Patrick's College.

That may be so but that's the context is it?---Yes, yes, he headed – when John took us into the 2003 election he was from the, the head of John's fundraising team.

And relevant - - -?---Bear in mind I was Deputy Leader at the time so I was well acquainted with what was going on.

I was going to come to that. You were Deputy Leader and indeed I think as some witnesses have already said you worked out of or closely out of the Leader's office at the time?---Yes.

The Leader of the Opposition and the Deputy Leader effectively had adjoining offices or worked out of the same office, is that right?---Well yes, it was in the sort of same little area.

10 In any event that's the context in which you were introduced to and came to know Nick, is that right?---Yes.

And would this be overstating things that from at least prior to the 2003 election Mr Di Girolamo was very well known with Liberal Party circles? ---Yes.

Principally on the platform of fundraising?---And also through the Italian Chamber of Commerce.

20 He was well known as far as you could see to most if not all senior Members of the Liberal Party at that time?---Yes.

And he continued to be so well known to senior Members of the Liberal Party coming forward to the 2007 and the 2011 State election, is that right?--Yes, yes.

30 THE COMMISSIONER: Mr Alexis, I know where all this is going but this was all, this was all adduced from Mr Di Girolamo. I don't understand that his history with the Liberal Party is in dispute we all know that he had connections well before these events.

MR ALEXIS: Well - - -

THE COMMISSIONER: I mean I know, I know what the submission is going to be but there's ample evidence of it without having to get it from this witness.

40 MR ALEXIS: Well one can't be sure that the source from which that evidence was led will necessarily be accepted which is why I'm seeking corroboration of it and it is a factor that that Counsel Assisting expressly opened on and if it wasn't for that opening I wouldn't be taking time on it but - - -

THE COMMISSIONER: I understand that but I don't understand Counsel Assisting to have disputed with Mr Di Girolamo that in fact most of that as I understand it was led from Mr Di Girolamo - - -

MR ALEXIS: By me.

THE COMMISSIONER: Well by you and by Counsel Assisting in terms of, in terms of the way he explained Mr Di Girolamo's friendship with various people in Liberal Party. Now we could – if you want to put it could you put it in a rolled up proposition rather than going through it all chapter and verse.

MR ALEXIS: Let me do that, let me do that, thank you, Commissioner.

10 Mr Hartcher, can I put this proposition to you the idea that Mr Di Girolamo wormed his way into the heart of the Liberal Party by causing AWH to make consulting fee payments to Eightbyfive from April 2009 is completely and utterly ridiculous isn't it?---Absolutely ridiculous.

Thank you. Now you mentioned a moment ago Mr Di Girolamo's position as President of the Italian Chamber of Commerce?---Yes.

And in that connection you actually went to Mr Di Girolamo and sought his advice about a pre-selection candidate a Mr Farlow didn't you?---Yes.

20 And that was in about February or early March of 2009?---Yes. After the 14 January lunch, yes.

And critically for present purposes that was before you provide the introduction of Mr Koelma to Mr Di Girolamo, is that right?---Yes.

30 And may we understand, Mr Hartcher, that one of the reasons why you went to Mr Di Girolamo and sought to ascertain his opinion about Mr Farlow's suitability was because you well understood his connections not only as the President of the Italian Chamber of Commerce but you also knew that he had a high profile in the seat of Drummoyne?---Absolutely.

You understood that he grew up there?---Absolutely.

His opinion was therefore important?---It was of extreme importance.

40 And indeed the then Leader of the Opposition Mr O'Farrell had expressly asked you to seek Mr Di Girolamo's opinion out on that very subject didn't he?---He had – yes, I suppose that's the best way of putting it, he had said that he needed to know that that, that Scott would be acceptable to the um, community in Drummoyne and to the, especially to the large Italian community there and that Nick was an appropriate person to consult about it.

Thank you. Can I come to something else that was raised by Counsel Assisting, this time in the course of some examination that was made of Mr Di Girolamo and Commissioner, this is at 3855 from about line 20 of the transcript. Mr Hartcher, it was put to Mr Di Girolamo that the Eightbyfive retainer and just so we're clear that's the contractual retainer between AWH

on the one hand Mr Koelma's business Eightbyfive on the other if you follow?---Yes.

But it was suggested that the Eightbyfive retainer was a mechanism, a mechanism by which payments could be made for the benefit of Mr Hartcher?---Yes.

Now just pausing there, you understand that suggestion was put?---Yes.

10 You've read some transcript no doubt?---Yes.

And just by way of clarification it was clarified as to what was meant by the expression benefit that this was said to be a benefit that you obtained either professionally or politically. Mr Hartcher received a benefit professionally or politically from those moneys being paid under the retainer. That's at transcript 3856.1. Do you follow the proposition it was put?---Yes, I do.

20 Now we know that the Eightbyfive retainer commenced in late March 2009 and continued until shortly after the 2011 State Election so we have a retainer period of about two years. The question I want to come to is this, during that two year period did you ever receive any professional benefit as a result of Eightbyfive receiving consulting fees from time to time on a monthly basis from AWH?---No.

Did you ever receive any political benefit by reason of those consulting fees being paid to Mr Koelma's firm by AWH on a monthly basis?---No.

30 You've told us I think that Mr Koelma did work voluntarily in the course of your Election campaign leading up until the 2001 (as said) Election. You've told us that I think?---2011 Election, yes, yes.

And then after the election when you won Government, he became a staffer on your- - ?---A policy advisor, yes.

Thank you. Now, during the two-year period of what I'll call the Eightbyfive retainer, did you receive any benefit at all by reason of moneys being paid by AWH to Mr Koelma, whether professional, political or otherwise?---No.

40 THE COMMISSIONER: How much longer would you be, Mr Alexis?

MR ALEXIS: About 20 minutes, Commissioner.

THE COMMISSIONER: All right. Well, we'll pick it up tomorrow. Could I just say that the witness's response to the last two propositions of course depends upon how one characterises political benefit. That's a matter for submissions ultimately but I don't understand this witness's answer to necessarily dispose of that question entirely.

MR ALEXIS: Well, Commissioner, I'm grateful that you've raised that.

THE COMMISSIONER: Well, it, it's a matter of- -

MR ALEXIS: Because we can only seek to distil and therefore understand what is being put based on two things principally, one, what was put in opening – and none of this was put in opening by the way – two, what learned Junior Counsel Assisting put to Mr Di Girolamo in cross-
10 examination. I have put everything that we have discerned from the transcript of those questions put in cross-examination and we do not understand anything outside of professional benefit or political benefit.

THE COMMISSIONER: Well, I know, but all I'm saying is that the term political benefit is a very very broad term and I understood Counsel Assisting to have made it quite clear that the political benefit to this witness was in allowing or rather in promoting payment through Eightbyfive of Mr Koelma, Mr Webber and Mr Spence who each had no other source of
20 income and thereby freed them up to campaign for the Central Coast and in that way the political benefit might be seen to also adhere to Mr Hartcher. Now, that's as I understand the submission.

All I want to make clear is that a simple rejection of that proposition by this witness does not dispose of that issue.

MR ALEXIS: I'm very grateful that you've distilled that and I'll take that up in the morning if I may.

THE COMMISSIONER: Am I right about that, Mr Watson.
30

MR WATSON: You are, Commissioner. And it's also this, that this group on the Central Coast were members of Mr Hartcher's faction.

THE WITNESS: I reject that.

MR WATSON: He would, he would then gain- -

THE WITNESS: No, that's not in evidence and I reject it.

40 THE COMMISSIONER: It's not, it's not a question, Mr Hartcher. Counsel's responding to me. Go on.

THE WITNESS: Then I apologise, Madam Commissioner.

MR WATSON: And he was able by those means to acquire additional people in his faction in the Parliamentary Party.

THE COMMISSIONER: Right. Thank you.

MR WATSON: There's two things I want to do before we adjourn – I'm so sorry. I was reminded I didn't raise in trying to do something by shorthand – it's better than I do it tonight so that if instructions are necessary to be sought it can be done. So could I just ask Mr Hartcher some questions on one particular issue?

THE COMMISSIONER: Yes.

10 MR WATSON: Mr Hartcher, I went too quickly before. On the Heath Aston article, especially the first article, do you remember- -?---The first article is?

Yes, it was dealing with- -?---No, the first article is, sorry, what?

I'm, it was dealing with the issue of alterations to an Auditor-General's report?---Right, yes.

20 And what happened there was that had become evident following documents which had been collection under a Freedom of Information application. Do you remember that?---Yes.

Who gave you those documents?---Well, I don't think I saw those – I don't recall seeing those documents.

You were quoted in the article and there seems to have been substantial contact between you and Mr Aston. Is that right?---I was, in that article – there was contact between Mr and Mr Aston as to quotes for the article, yes.

30 Did you ever hear of the issue of the Auditor-General's report being altered or doctored by Sydney Water?---Well, I'd need to ah, I'd need to look at the documents, Mr- - -

Well, I'm going to suggest to you that in fact that's what the FOI application was all about and this was information which you were then selectively fed by Koelma and Di Girolamo and which you then passed on to Heath Aston. Do you accept that?---No.

40 And, Commissioner, the other thing I wanted to do was to tender extracts from Mr Hartcher's CE. There's – I'll do that now if I may.

THE COMMISSIONER: The suppression order made in relation to the evidence of 12 February, 2014, pages 803 to 822 inclusive is varied to the extent of the extract, and that will be Exhibit S99.

**THE SUPPRESSION ORDER MADE IN RELATION TO THE
EVIDENCE OF 12 FEBRUARY, 2014, PAGES 803 TO 822
INCLUSIVE IS VARIED TO THE EXTENT OF THE EXTRACT**

MR WATSON: Thank you, Commissioner. I think that's actually S100.

THE COMMISSIONER: Sorry, S100, I'm sorry.

10

**#EXHIBIT S100 - EXTRACTS OF TRANSCRIPT OF
COMPULSORY EXAMINATION OF CHRIS HARTCHER DATED
12 FEBRUARY 2014**

MR WATSON: Thank you. Thank you, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Hartcher. You can stand
down. We'll resume at 10.00am tomorrow. Thank you.

20

THE WITNESS WITHDREW [3.55pm]

**AT 3.55PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.55pm]**