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TRANSCRIPT OF MORNING PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

TUESDAY, 17 NOVEMBER 2020

(30th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH AM, QC

Counsel Assisting: Mr Michael Tovey QC  
Ms Amber Harris  
Mr Tam McLaughlin

OPERATION SANDON INVESTIGATION

PUBLIC EXAMINATIONS PURSUANT TO PART 6 OF THE INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION ACT 2011

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*Every effort is made to ensure the accuracy of transcripts. Any inaccuracies will be corrected as soon as possible.*

1 COMMISSIONER: Good morning, Mr Aziz, Mr Rubenstein. 10:10:05AM  
2 MR AZIZ: Good morning. 10:10:11AM  
3 MR RUBENSTEIN: Good morning, Commissioner. 10:10:12AM  
4 COMMISSIONER: Are we ready to proceed? 10:10:14AM  
5 MR RUBENSTEIN: Yes. Just before we proceed, one housekeeping 10:10:16AM  
6 matter, if I may. 10:10:19AM  
7 COMMISSIONER: Yes. 10:10:20AM  
8 MR RUBENSTEIN: I've received just a couple of minutes ago an 10:10:21AM  
9 email that provides a link to the transcript of Mr Aziz's 10:10:24AM  
10 private examination in October of last year. There seems 10:10:28AM  
11 to have been some issue with the production or provision 10:10:33AM  
12 of that link yesterday and we didn't receive it. It's 10:10:35AM  
13 only been received by my instructors just now. That means 10:10:40AM  
14 that we have not had an opportunity to have a look at that 10:10:45AM  
15 transcript, nor has there been an opportunity to provide 10:10:48AM  
16 Mr Aziz any advice about that transcript. 10:10:50AM  
17 So, if there's going to be today questioning 10:10:53AM  
18 about discrepancies between what was said in October to 10:10:59AM  
19 what was said or what will be said today and beyond, we 10:11:03AM  
20 won't have had an opportunity to give Mr Aziz any advice 10:11:07AM  
21 about that. I'm not sure when we'll get a chance to look 10:11:10AM  
22 at that transcript and I don't know how long it is. 10:11:14AM  
23 I presume it's a day of hearing, so it might take a bit of 10:11:16AM  
24 time. It may not be until tonight that we have an 10:11:20AM  
25 opportunity to look at that. 10:11:22AM  
26 COMMISSIONER: Yes. We'll monitor that as the examination 10:11:24AM  
27 progresses, Mr Rubenstein, and if it becomes an issue, 10:11:28AM  
28 that is that there's some need to make any comparison 10:11:33AM  
29 between his evidence now and his evidence then, then 10:11:39AM

1 obviously you need an opportunity to look at the 10:11:47AM  
2 transcript. Hopefully that won't become necessary and you 10:11:49AM  
3 can at your leisure, when you have some time either during 10:11:51AM  
4 lunchtime or at the end of the day, look at it. I doubt 10:11:54AM  
5 that it will be an issue. I think the primary focus of 10:12:01AM  
6 attention at the private examination was in relation to 10:12:06AM  
7 the money that he provided Mr Woodman and regrettably, as 10:12:10AM  
8 I said yesterday, Mr Aziz must have said 10 times during 10:12:16AM  
9 the course of that examination in one form or another that 10:12:22AM  
10 he only provided Mr Woodman with \$370,000 and not only did 10:12:27AM  
11 he say that, but he proffered an explanation for what he 10:12:34AM  
12 did with the balance of the \$600,000 during the period 10:12:37AM  
13 when he gave Mr Woodman \$370,000. So, there's a stark 10:12:42AM  
14 contrast there which no doubt you would need to get some 10:12:50AM  
15 instructions from Mr Aziz about before we conclude this 10:12:53AM  
16 public examination. 10:12:57AM

17 MR RUBENSTEIN: Yes. Thank you for that indication, 10:12:58AM  
18 Commissioner. 10:13:01AM

19 COMMISSIONER: Yes, Mr Tovey. 10:13:02AM

20 <SAMEH AZIZ, recalled: 10:13:03AM  
21 <EXAMINED BY MR TOVEY, continued: 10:13:08AM

22 Thank you, Mr Commissioner. Yesterday I think we had got to 10:13:13AM  
23 the stage where by October 2014, at the end, by 10:13:18AM  
24 21 October, you weren't able to explain some \$102,000 of 10:13:30AM  
25 cash payments which had by that stage arrived in your bank 10:13:36AM  
26 accounts since the beginning of 2014. In fact I think it 10:13:44AM  
27 was since December of 2013, and on top of that there was 10:13:51AM  
28 another \$23,000 in Zagame cheques. So, we'll just move 10:13:55AM  
29 on. I now want to move on to in November 2014 there was 10:14:04AM

1           paid into your accounts in cash \$16,000, so that's in           10:14:16AM  
2           November and December of 2014. What was the source of           10:14:24AM  
3           that cash?---I don't recall, Mr Tovey.           10:14:30AM  
4    In February, March, May, June, July and September of 2015 there    10:14:37AM  
5           was another \$7,500 in cheques from Zagame, all between one    10:14:51AM  
6           and two thousand dollars. Do you recall what they related    10:15:03AM  
7           to?---Like I said yesterday, most likely they would have    10:15:06AM  
8           been payouts from Keno winnings.           10:15:11AM  
9    So would you invest thousands of dollars on Keno? How did it    10:15:15AM  
10           work?---Not necessarily. I wouldn't call it an           10:15:21AM  
11           investment. It's basically a punt, like any normal punter    10:15:26AM  
12           would, and it's sometimes a very low entry cost to be able    10:15:30AM  
13           to participate in a Keno game and if the numbers come up,    10:15:34AM  
14           the numbers come up.           10:15:39AM  
15    So, from what I understood you told me yesterday, and please    10:15:40AM  
16           tell me if I'm wrong, you were indicating that when you    10:15:44AM  
17           went to Zagame's it was on the odd occasion where you'd    10:15:48AM  
18           spend a couple of hundred dollars. Was that in fact the    10:15:55AM  
19           case?---I can't recall from that time, but I do recall    10:15:58AM  
20           that throughout the period I had a number of marriage    10:16:02AM  
21           problems and basically going to Zagame's as a way of    10:16:08AM  
22           taking time out of work and taking time to chill by myself    10:16:11AM  
23           is something that I did because Zagame's was only around    10:16:16AM  
24           the corner from where I lived. In fact, it was walking    10:16:20AM  
25           distance from where I lived. So they had a nice outdoor    10:16:23AM  
26           beer garden that I would sometimes go and catch up with    10:16:27AM  
27           friends there and occasionally we might have a go at    10:16:30AM  
28           playing Keno, but I haven't kept a diary of how many times    10:16:35AM  
29           I've gone there. I used to also conduct some business    10:16:39AM

1 meetings there because it was right in the heart of my 10:16:43AM  
2 ward and - - - 10:16:46AM  
3 Look, I wasn't - Mr Aziz, could I please implore you just to 10:16:47AM  
4 listen to the question and answer the question, and not 10:16:55AM  
5 expand indefinitely because it makes it impossible to 10:17:00AM  
6 question you otherwise. You understand that?---I'm trying 10:17:04AM  
7 to answer the question as best as I can, Mr Tovey, but 10:17:08AM  
8 I can't recall those times. 10:17:11AM  
9 The question was a simple one. I think in the course of that 10:17:14AM  
10 explanation you said that you had the occasional go at 10:17:18AM  
11 Keno when from time to time you would attend with friends 10:17:24AM  
12 at Zagame's. What did you mean by 'the occasional go'? 10:17:30AM  
13 Were you investing thousands of dollars or \$20 or \$30 in 10:17:36AM  
14 the odd Keno punt or raffle?---I don't recall the quantum 10:17:46AM  
15 of my investments, if you call them investments. I call 10:17:50AM  
16 them bets, and basically it just depended on what was 10:17:54AM  
17 happening at the time in terms of the social interactions 10:17:57AM  
18 that I was in and what other people were doing as well. 10:18:00AM  
19 So I can't recall. 10:18:03AM  
20 All of us, Mr Aziz, are aware of whether or not during a time 10:18:05AM  
21 we were punting there were people who punted in thousands 10:18:14AM  
22 of dollars or 10s, 20s or maybe a couple of hundred 10:18:22AM  
23 dollars. Now, were you a person who punted in thousands 10:18:26AM  
24 of dollars or were you one of the ordinary type punters 10:18:30AM  
25 who just had, as you said, the odd go, the occasional 10:18:33AM  
26 go?---I can't recall, Mr Tovey. I haven't been in that 10:18:40AM  
27 environment for at least three years and at the time that 10:18:44AM  
28 I was in that environment occasionally I was affected by 10:18:51AM  
29 high levels of stress and also high levels of anxiety. So 10:18:57AM

1 the memories that I have from those days are very vague. 10:19:02AM  
2 Sometimes I may have put a larger bet on, as you call it, 10:19:07AM  
3 a couple of hundred dollars, \$300, \$400, other times it 10:19:11AM  
4 might have only been a dollar bet. I honestly can't 10:19:15AM  
5 recall. 10:19:19AM  
6 So the large bets then were two, three, \$400?---I can't recall. 10:19:19AM  
7 I'm just giving you an example. 10:19:26AM  
8 Did you ever bet \$20,000?---No way in the world, no. 10:19:28AM  
9 Did you ever bet \$1,000?---I may have. 10:19:32AM  
10 All right. Getting back then to Zagame's, over that period 10:19:40AM  
11 from February to September 15 you got \$7,500 in cheques 10:19:50AM  
12 back. That might have been Keno winnings; is that 10:19:54AM  
13 right?---Yes, often - can I answer with a bit of 10:20:00AM  
14 clarification. Often sometimes they would run out of 10:20:03AM  
15 cash, so instead of paying the punter out in cash they'd 10:20:06AM  
16 pay them with a cheque. 10:20:10AM  
17 It wasn't the case, was it, that you bet on the pokies?---I may 10:20:16AM  
18 have done that as well as any person present in that 10:20:23AM  
19 environment would have a go at doing. 10:20:28AM  
20 Anyway, from what you say, it certainly wasn't the case that 10:20:31AM  
21 you were laundering money, turning cash into 10:20:34AM  
22 cheques?---I didn't need to do that because there was 10:20:39AM  
23 absolutely no reason for me to do that, and it's not in my 10:20:43AM  
24 view a very clever way if you want to launder money 10:20:48AM  
25 because you could basically lose it all. So, it's not a 10:20:51AM  
26 question of money laundering, it was a question of taking 10:20:55AM  
27 time out during a very stressful period of my life, and 10:20:59AM  
28 that's the only thing that happened. 10:21:02AM  
29 COMMISSIONER: Mr Aziz, you understand the reason for Counsel 10:21:09AM

1           Assisting asking you these questions? You understand why 10:21:13AM  
2           the examination in relation to your spending money on Keno 10:21:17AM  
3           is being pursued?---Frankly, Commissioner, no, because 10:21:29AM  
4           I was participating in a perfectly legal activity as part 10:21:34AM  
5           of my time out or my private time. 10:21:39AM  
6    Again, I urge you not to make a speech. That wasn't my 10:21:41AM  
7           question. My question was do you understand why Counsel 10:21:45AM  
8           Assisting is asking this line of questions?---No, I don't, 10:21:51AM  
9           Commissioner. 10:21:54AM  
10   Perhaps I'll make it clear for you. He's taking you through 10:21:55AM  
11           the very substantial cash deposits that have been 10:21:59AM  
12           identified in your accounts; do you follow?---Yes. 10:22:03AM  
13   And he's exploring with you whether or not any of these 10:22:07AM  
14           gambling activities could explain those large cash 10:22:12AM  
15           amounts. Do you not follow that?---I follow that, and 10:22:17AM  
16           I answer in saying it is possible that some of those cash 10:22:21AM  
17           deposits were relating to those activities. But I also 10:22:24AM  
18           refer to my answer back yesterday when I explained that we 10:22:28AM  
19           did have a business and that business sometimes produced a 10:22:32AM  
20           lot of cash through its daily operations and that cash 10:22:37AM  
21           would be deposited in one of many accounts that I had at 10:22:41AM  
22           the time. So I was the business manager and it was up to 10:22:45AM  
23           me to distribute the proceeds in accordance with where 10:22:49AM  
24           they were needed. So, there were two sources really for 10:22:53AM  
25           that cash. 10:22:55AM  
26   Yes. Yes, Mr Tovey. 10:22:59AM  
27   MR TOVEY: All right. So, again in February of 2016 in the 10:23:10AM  
28           space of one month you deposited in excess of \$10,000 10:23:21AM  
29           worth of Zagame's cheques. Was your luck running very hot 10:23:26AM

1 in February 2016 at the Keno table?---It wasn't a Keno 10:23:32AM  
2 table. Keno is played on a screen. 10:23:43AM  
3 At the Keno screen?---Possibly. Possibly. I can't recall. 10:23:45AM  
4 I mean, the odds for Keno can be quite substantial, if 10:23:56AM  
5 anyone knows how the game is played. So, you know, you 10:24:01AM  
6 can you bet one dollar and you can get a return of, you 10:24:04AM  
7 know, maybe 100 or a couple of hundred dollars on that if 10:24:08AM  
8 the right numbers come up. 10:24:12AM  
9 COMMISSIONER: Mr Aziz, do you remember ever winning as much as 10:24:17AM  
10 \$10,000 at Keno?---I've won more than that, Commissioner. 10:24:21AM  
11 I've also won more than that playing the slot machines or 10:24:28AM  
12 the pokies when jackpots come up, you know, putting in \$10 10:24:33AM  
13 or \$20 and in one instance winning - I remember this very 10:24:37AM  
14 well because the whole of the venue gathered around me 10:24:42AM  
15 when it happened - but I won \$19,000 when the jackpot came 10:24:45AM  
16 up. 10:24:49AM  
17 MR TOVEY: At this stage, Mr Aziz, we're up to about 15 Zagames 10:24:52AM  
18 cheques which add up to \$50,000. Do you have any 10:25:06AM  
19 recollection of having winnings in the vicinity of \$50,000 10:25:12AM  
20 over a period of time?---Collectively it's very possible, 10:25:19AM  
21 yes. 10:25:23AM  
22 All Keno?---Keno and a combination of things. I can't 10:25:24AM  
23 really - as I said, I haven't kept a diary of every time 10:25:31AM  
24 I went into that establishment. 10:25:34AM  
25 Have you got a diary?---I don't keep a diary. 10:25:40AM  
26 So there isn't a diary you could check?---Sir, I just told you 10:25:45AM  
27 I don't keep a diary. 10:25:57AM  
28 Why did you tell me then you hadn't checked your diary if you 10:25:59AM  
29 don't keep one?---No, I didn't say I haven't checked my 10:26:03AM

1 diary. I said I don't keep a diary, and then you asked 10:26:06AM  
2 me, 'Have you kept a diary,' and I said, 'No, I don't keep 10:26:10AM  
3 a diary' of my daily activities. 10:26:13AM  
4 In April of 2016 you on 11 April deposited \$20,000 - sorry, 10:26:15AM  
5 \$2,000 twice, that is a total of \$4,000 in your account. 10:26:28AM  
6 Why would you make two cash deposits on one day?---Because 10:26:36AM  
7 the totality of the deposits I wanted to make would have 10:26:43AM  
8 been \$4,000, but if you've ever deposited through an ATM 10:26:46AM  
9 machine you are told that it will only accept 40 notes at 10:26:50AM  
10 a time. So if you depositing \$50 notes to the tune of 10:26:56AM  
11 \$2,000, you actually have to make two deposits in order to 10:27:02AM  
12 accomplish the initial deposit that you want to make. Do 10:27:05AM  
13 you follow, Mr Tovey? So the teller machine or, sorry, 10:27:07AM  
14 yes, the ATM will only accept up to 40 notes at a time. 10:27:12AM  
15 So if the notes were \$100, for example, I could make one 10:27:18AM  
16 deposit of \$4,000 over one transaction, but if they were 10:27:22AM  
17 \$50 I have to make two transactions. 10:27:27AM  
18 Thank you. In any event, in April, May, June of 2016 - sorry, 10:27:29AM  
19 in April and May of 2016 you made \$9,000 in cash deposits 10:27:44AM  
20 on three days, \$4,000, \$3,000 - and this is within \$100 of 10:27:58AM  
21 the actual amounts - and \$2,000. Can you recall what that 10:28:05AM  
22 was?---Like I said, they most likely may have been 10:28:11AM  
23 proceeds from our dental practice. 10:28:16AM  
24 So in the space of 18 months at this stage, at the end of May 10:28:25AM  
25 2016, we've got you having deposited about \$50,000 of 10:28:30AM  
26 Zagame's cheques and about in excess of \$125,000 in cash 10:28:40AM  
27 payments. Do you accept that was the case?---If you're 10:28:48AM  
28 telling me it is, then I accept it, and if I could just 10:28:55AM  
29 refer to an answer I gave yesterday when you asked me how 10:28:59AM

1 much was the dental practice turning over annually and 10:29:04AM  
2 I said I couldn't recall. I did actually check my records 10:29:08AM  
3 last night and the figure that I gave you of 600,000 was 10:29:10AM  
4 actually accurate. And like I said yesterday, 20 per cent 10:29:14AM  
5 of that was invariably cash in any given year, and we have 10:29:18AM  
6 to accept cash. 10:29:26AM  
7 You've still got records of what was banked, have you, from the 10:29:26AM  
8 practice?---I have some records, yes. 10:29:30AM  
9 You'd be able to provide those records to us tomorrow then 10:29:38AM  
10 about what the turnover of the - what the total takings 10:29:41AM  
11 were and how much was in cash?---Mr Tovey, you've already 10:29:47AM  
12 got those records because you've downloaded my computer. 10:29:50AM  
13 You've told us that you had access to them last night. Can you 10:29:56AM  
14 provide them to us?---Well, I had access to the headline 10:29:59AM  
15 figures in terms of what the practice was turning over. 10:30:02AM  
16 But there are other records that were taken from me when 10:30:06AM  
17 I was in China in April of 2017 when I separated from my 10:30:09AM  
18 ex-wife and other records that were physically handed over 10:30:15AM  
19 to the accountant when he was doing our tax returns for 10:30:19AM  
20 the practice. The records that I have in terms of some of 10:30:21AM  
21 the information that I submitted to him showed a turnover 10:30:26AM  
22 of some \$600,000 as a minimum on any given year. 10:30:31AM  
23 Yes, and you've got your banking records?---I don't have those 10:30:38AM  
24 banking records anymore, no. 10:30:42AM  
25 Were these cash - you've got your tax returns no doubt or your 10:30:48AM  
26 accountant has?---The accountant has, yes. 10:30:53AM  
27 Well, you'd have no difficulty then asking on our behalf your 10:30:56AM  
28 accountant to provide the tax returns of the business 10:31:01AM  
29 which you ran for the period through from 2014 through to 10:31:07AM

1 2017?---I can ask him. I don't have any problem asking 10:31:11AM  
2 him. 10:31:19AM  
3 Would do you that, please?---I'm happy to do that, yes. 10:31:19AM  
4 Could you ask him to email the tax returns to you and you can 10:31:24AM  
5 provide those to us tomorrow?---Yes, well, he's actually 10:31:28AM  
6 residing in Queensland - - - 10:31:34AM  
7 COMMISSIONER: Just a moment. 10:31:36AM  
8 MR RUBENSTEIN: Mr Commissioner, if I may. 10:31:38AM  
9 COMMISSIONER: Yes. 10:31:40AM  
10 MR RUBENSTEIN: I think the better way to deal with this would 10:31:41AM  
11 be for either my learned friend or IBAC to serve a notice 10:31:43AM  
12 or seek a direction from the Commissioner for any further 10:31:47AM  
13 production of records and Mr Aziz can make some enquiries 10:31:49AM  
14 as to how long that will take and can provide some 10:31:53AM  
15 responses to my learned friend about how long that process 10:31:57AM  
16 will take after he's made those enquiries. 10:32:00AM  
17 COMMISSIONER: I agree with the first part of what you said, 10:32:06AM  
18 Mr Rubenstein, that I think the appropriate way to deal 10:32:08AM  
19 with that is by a summons. But if Mr Aziz, as I followed 10:32:11AM  
20 him, has some documents in his possession or some records 10:32:16AM  
21 in his possession which he's indicated he had access to 10:32:23AM  
22 last night, then presumably pursuant to that summons they 10:32:26AM  
23 can be produced tomorrow. 10:32:32AM  
24 MR RUBENSTEIN: I think Mr Aziz's evidence, and he can confirm 10:32:35AM  
25 this, is the material that he reviewed was material that 10:32:39AM  
26 had been seized by IBAC already, that is material that was 10:32:41AM  
27 on his computer, which means that Mr Tovey would have 10:32:45AM  
28 access to that material already. Mr Aziz can confirm 10:32:49AM  
29 that, of course. Whether or not there's additional 10:32:54AM

1 documents, if there is additional documents, then 10:32:57AM  
2 I reiterate the position that Mr Aziz will take is if 10:33:00AM  
3 there is some compulsion to provide those documents they 10:33:07AM  
4 will be provided. 10:33:10AM  
5 WITNESS: I'm sorry - - - 10:33:11AM  
6 COMMISSIONER: Just a moment, Mr Aziz. To avoid the issue 10:33:13AM  
7 about whether or not the material to which he has had 10:33:17AM  
8 access is already material which IBAC has, the simplest 10:33:21AM  
9 solution is that he simply produce that material, 10:33:28AM  
10 Mr Rubenstein. Otherwise we have no way of knowing 10:33:33AM  
11 whether it's material already in the possession of the 10:33:36AM  
12 Commission; do you follow? 10:33:38AM  
13 MR RUBENSTEIN: I do follow. But, that said, if that's 10:33:46AM  
14 material that already has been provided to IBAC which IBAC 10:33:51AM  
15 has receipted and provided in the usual course, and I have 10:33:54AM  
16 seen this, a receipt as to all the material that it has 10:34:00AM  
17 seized, it may well be that Mr Aziz can be provided a copy 10:34:03AM  
18 of that receipt, identify where that is and IBAC can then 10:34:08AM  
19 access the material which it already has in its 10:34:12AM  
20 possession. 10:34:15AM  
21 COMMISSIONER: I think, Mr Rubenstein, the Commission won't 10:34:15AM  
22 know which material it already has to see what material 10:34:19AM  
23 Mr Aziz is referring to - - - 10:34:28AM  
24 WITNESS: Commissioner, can I say something? 10:34:31AM  
25 COMMISSIONER: Mr Aziz, just a moment, please. We'll proceed 10:34:33AM  
26 by way of a summons, Mr Tovey, if you wish to get access 10:34:37AM  
27 to any of the material to which Mr Aziz is now making 10:34:41AM  
28 reference. 10:34:43AM  
29 MR TOVEY: Mr Commissioner, what I'm concerned to identify is 10:34:46AM

1 the material Mr Aziz says he referred to last night. That 10:34:53AM  
2 material might or might not be amongst the material that 10:34:58AM  
3 we already have or it might be material which is 10:35:01AM  
4 ultimately recoverable by summons. However, I have been, 10:35:07AM  
5 as you will appreciate, sir, exploring the credibility of 10:35:15AM  
6 this witness in respect of assertions about the turnover 10:35:19AM  
7 of his wife's business and cash. He says he last night 10:35:22AM  
8 accessed certain records which led him to give certain 10:35:28AM  
9 evidence today. I as a matter of course, I would suggest, 10:35:32AM  
10 am entitled to have produced the records which form the 10:35:36AM  
11 basis of the evidence he's given this morning and on which 10:35:40AM  
12 he has testified he relied. 10:35:43AM

13 COMMISSIONER: I agree with the reasoning, Mr Tovey. But if 10:35:46AM  
14 his legal representatives have taken the point that they 10:35:51AM  
15 don't wish to simply have Mr Aziz return with those 10:35:55AM  
16 documents without some formal form of compulsion, then the 10:35:59AM  
17 appropriate course is the issuing of a summons; do you 10:36:04AM  
18 follow? 10:36:07AM

19 MR TOVEY: Yes. 10:36:09AM

20 WITNESS: Sorry, Commissioner, may I say something? 10:36:10AM

21 COMMISSIONER: Yes, what do you want to say, Mr Aziz?---First 10:36:13AM  
22 of all, I reject the language from Mr Tovey that this was 10:36:15AM  
23 my wife's business. This was a family business that 10:36:19AM  
24 I actually established and my wife was a participant in 10:36:21AM  
25 it, obviously. So, I would appreciate it if the accurate 10:36:25AM  
26 reference could be made in future that this was our family 10:36:27AM  
27 business. Secondly, I am absolutely confident that IBAC 10:36:30AM  
28 has the material already because things in my computer 10:36:35AM  
29 I compartmentalise them into folders. There is a folder 10:36:41AM

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there called 'Dental practice' and when you downloaded all  
the folders from my computer that would have been one of  
the folders you downloaded. There are several subfolders  
in that folder and it is divided into the various  
functionalities of the dental practice. Now, I happened  
to try and access the headline figures in terms of how  
much the practice was making and they're the figures that  
I gave Mr Tovey yesterday and I was confirming this  
morning and I say it was a minimum of \$600,000 a year. In  
fact, I think in one year we may have made as much as  
\$782,000 in turnover. But I'm happy to make that entire  
folder available to you and you can go through every bit  
of it and take whatever information you like. I have  
nothing to hide, and that was on my computer that you  
seized.

Yes. Well, your legal representative has intervened to say  
that he wishes that to be done by a formal process; do you  
follow?---Yes, but it's doubling up, Commissioner, because  
you've already got the information.

That's as you explain the matter, but Counsel Assisting has  
explained why they require access to the material. Do you  
follow?---Okay.

Yes, Mr Tovey.

MR TOVEY: So, you say there was a head folder called 'Dental  
practice' and what was the subfolder in which the  
information that you relied on was contained?---It may  
have been called 'Taxation', it may have been called  
'Financial', it may have been called many other things,  
and there may have been a repeat of the same information

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1 in several of the subfolders because some of the 10:38:31AM  
2 information had multiple headings that they were relevant 10:38:36AM  
3 to, but it's all there. 10:38:39AM  
4 Just to assist us, when you took money from the till and 10:38:41AM  
5 deposited it in the bank, what record did you keep as to 10:38:46AM  
6 the source of those cash deposits?---The record was kept 10:38:52AM  
7 automatically by the dental software. 10:38:58AM  
8 Yes, and how was that done?---If you allow me to explain. 10:39:01AM  
9 Yes?---So a patient will come in, dental work will be done, a 10:39:06AM  
10 bill will be created, that bill can either be acquitted by 10:39:12AM  
11 an EFTPOS payment, a credit card payment or a cash 10:39:16AM  
12 payment. Unless it's recorded how the payment was made, 10:39:20AM  
13 the system will automatically SMS that customer every 10:39:23AM  
14 couple of days requesting urgent payment of their bill. 10:39:26AM  
15 So we have to pick that the bill has been paid in the 10:39:29AM  
16 dental software, but this is information that I don't have 10:39:35AM  
17 access to. This is information that the dental practice 10:39:38AM  
18 has access to and was handed to the new owners when the 10:39:41AM  
19 practice was sold in October 2016. 10:39:44AM  
20 Moving on then with cash deposits, in July 2016, \$2,000; in 10:39:50AM  
21 August of 16 you've got \$4,000, then \$11,000. These are 10:40:11AM  
22 all in multiple payments. In September of 16 you've got 10:40:25AM  
23 \$10,000, and then again \$2,000, then again \$6,000, then 10:40:39AM  
24 again \$4,000, then \$3,000, then \$3,000. Do you have any 10:40:52AM  
25 recollection of any of those payments?---No, I don't. 10:40:58AM  
26 All right. Those payments - on 6 September 2016 there were six 10:41:02AM  
27 deposits all adding up to \$9,950. Was that just a 10:41:22AM  
28 coincidence?---Are you saying that I did that to avoid the 10:41:34AM  
29 \$10,000 automatic trigger reporting to AUSTRAC? 10:41:39AM

1 Well, that's something that occurs to you, is it?---No, that's 10:41:43AM  
2 something that's been suggested by your question and the 10:41:47AM  
3 answer emphatically is no, because I have deposited large 10:41:49AM  
4 amounts of money clearly in my account before that were 10:41:55AM  
5 well in excess of \$10,000. I think it's called 10:41:58AM  
6 structuring, isn't it, and the answer is emphatically no. 10:42:01AM  
7 COMMISSIONER: No, it's not a coincidence; is that the answer 10:42:06AM  
8 to the question, is it?---The answer is I don't know why 10:42:09AM  
9 it added up to \$9,950, but it wasn't because I was trying 10:42:15AM  
10 to avoid attention by AUSTRAC. 10:42:20AM  
11 MR TOVEY: On 6 September it's \$1,950, on 8 September it is 10:42:27AM  
12 five deposits totalling \$5,950, on 28 September it's two 10:42:37AM  
13 deposits adding up to \$3,950, on 29 September you've got a 10:42:47AM  
14 deposit of \$2,950. Now, those are five sets of 10:42:59AM  
15 transactions all in sequence. Is it just an accident that 10:43:13AM  
16 every one of those sets of deposits came in at \$50 less 10:43:20AM  
17 than an even amount ?---I don't understand, but in any 10:43:25AM  
18 case it was not intentional. It's basically the money 10:43:33AM  
19 that I have to deposit is the money that I have to 10:43:38AM  
20 deposit. Now, I also need to make you aware of the fact 10:43:42AM  
21 that the reason many of the patients prefer to pay in cash 10:43:45AM  
22 rather than using their credit card is because there are 10:43:49AM  
23 merchant fees and sometimes the transaction amount for the 10:43:55AM  
24 dental work exceeded the \$1,000 limit that they could use 10:44:00AM  
25 if they paid by EFTPOS through their normal savings 10:44:05AM  
26 account, so they chose to pay in cash to avoid those fees. 10:44:09AM  
27 If you're talking about six or \$7,000 worth of dental 10:44:12AM  
28 treatment, the fee on that could be as high as \$70 or even 10:44:17AM  
29 \$105. So, all of these transactions could have been as a 10:44:20AM

1 result of the operation of the dental practice and I'm 10:44:25AM  
2 reasonably confident that that's the case. 10:44:30AM  
3 So then if we just look at where we are by 30 September 2016, 10:44:39AM  
4 from the time you first started assisting Mr Woodman in 10:44:50AM  
5 respect of C219 amendment, you have unexplained - sorry, 10:44:53AM  
6 you have cash deposits of \$169,000 plus 15,000 from 10:45:00AM  
7 Zagames. Any comment you want to make about that? You 10:45:08AM  
8 say, 'Well, look, all that must have come either from 10:45:13AM  
9 legitimate gambling wins and the dental practice'?---The 10:45:16AM  
10 only comment I would make is what I said yesterday and 10:45:23AM  
11 that is that the commercial relationship that I had with 10:45:25AM  
12 Mr Woodman started in May 2017. It was contracted, it was 10:45:27AM  
13 recorded, and when IBAC seized documents from my home they 10:45:33AM  
14 seized a copy of the contract. Everything else that 10:45:37AM  
15 followed was also contracted and payments came via bank 10:45:41AM  
16 deposits from his account to my account. I will say that 10:45:46AM  
17 throughout this period those amounts of deposits are not 10:45:50AM  
18 unusual in terms of the overall turnover of the dental 10:45:53AM  
19 practice. When you say that I started assisting 10:45:57AM  
20 Mr Woodman with his rezoning of Cranbourne West, I take it 10:46:00AM  
21 that's the C219 that you're referring to. The only action 10:46:04AM  
22 that I took in relation to this matter was moving the 10:46:09AM  
23 initial motion to get the proper planning process in 10:46:13AM  
24 train. As I explained yesterday, Mr Tovey, and please 10:46:19AM  
25 allow me the latitude to explain again, Cranbourne West 10:46:22AM  
26 was a rezoning proposition from industrial - - - 10:46:25AM  
27 Mr Aziz, I'll just phrase it neutrally. From the time you 10:46:29AM  
28 introduced the first C219 motion which was in February of 10:46:37AM  
29 2014, was it not?---I can't recall the exact date, but 10:46:52AM

1 I think it was around 2014, yes. 10:46:58AM  
2 Through to where we now are in February of 2017, I just want to 10:47:00AM  
3 keep on going with the individual deposits so you know 10:47:15AM  
4 what I'm talking about. October 16, \$6,000; (indistinct) 10:47:17AM  
5 October, seven (indistinct); three days later another 10:47:27AM  
6 \$20,000?---Yes, may I stop you there for a second? I do 10:47:31AM  
7 recall those amounts or I think I can relate what these 10:47:34AM  
8 amounts were relating to. 10:47:36AM  
9 Yes. That's in October 2016. You can recall those? What were 10:47:38AM  
10 they?---And I'll tell you why because that's - - - 10:47:42AM  
11 I don't want to know why. You say you know what they are 10:47:45AM  
12 related to. Just tell us?---Yes, I do. They were 10:47:48AM  
13 proceeds from the fundraiser that I held to support my 10:47:52AM  
14 council campaign, the dinner that I held for my council 10:47:55AM  
15 campaign. 10:48:00AM  
16 Was Mr Woodman at that dinner?---Absolutely not. 10:48:06AM  
17 This is October 2016. So \$20,000 is proceeds of fundraiser - - 10:48:15AM  
18 -?---No, I think I raised more than that. 10:48:22AM  
19 Excuse me. If you just excuse me, I think the 20,000 I'm 10:48:30AM  
20 referring to in fact had gone the other way. That was a 10:48:44AM  
21 \$20,000 deposit you're talking about that arose from your 10:48:49AM  
22 fundraiser; is that right? Sorry, I'm talking about a 10:48:53AM  
23 \$20,000 - I'll just take that back. On 3 October there 10:48:58AM  
24 was a \$6,000 deposit. On 7 October - I apologise - you 10:49:05AM  
25 withdrew \$20,000 of cash. Did you do that for any 10:49:16AM  
26 particular reason?---It may have been related to - I'm 10:49:20AM  
27 just trying to recall. It may have been related to the 10:49:29AM  
28 completion of certain works for the Santa Monica 10:49:35AM  
29 properties. Now, unfortunately some of the tradespeople, 10:49:39AM

1 while they provide tax invoices for their work, they only 10:49:43AM  
2 want to be paid in cash and so I can only assume that 10:49:47AM  
3 that's the case. Or it may have been withdrawn to also 10:49:54AM  
4 pay for some of the election expenses, and they're to go 10:49:57AM  
5 to various parties like the printer and the post office 10:50:03AM  
6 and so on. I can't recall exactly, but that may have been 10:50:06AM  
7 the case. 10:50:08AM  
8 So in any event you had a fundraiser which raised how much in 10:50:11AM  
9 2016?---From memory close to \$30,000. 10:50:18AM  
10 30,000?---Close to that, yes. 10:50:24AM  
11 And were there any major contributors to that?---Yes, there 10:50:25AM  
12 was. 10:50:28AM  
13 Who were they?---So they were two companies. One provided a 10:50:28AM  
14 coaching and leadership program that was worth \$16,000 10:50:34AM  
15 that was auctioned, and the other one provided an app 10:50:40AM  
16 development opportunity free to whoever purchases it, and 10:50:47AM  
17 that was worth over \$6,000, from memory, or \$3,000, 10:50:50AM  
18 I can't remember, and that was auctioned, and then there 10:50:55AM  
19 were also various people that provided gifts that were 10:50:58AM  
20 raffled, including one of my council colleagues, former 10:51:01AM  
21 Councillor Susan Serey, she bought me a couple of gifts 10:51:09AM  
22 from her gift shop that she was working at, and there were 10:51:13AM  
23 others that donated. I think another friend of mine 10:51:16AM  
24 donated sports memorabilia. All of these things were 10:51:20AM  
25 auctioned and raffled. I mean, the auction and raffle 10:51:24AM  
26 proceeds alone were over \$10,000. There were 300 people 10:51:26AM  
27 there. 10:51:29AM  
28 The coaching and leadership course that was auctioned off, who 10:51:29AM  
29 was the donor?---I can't recall his name, but I made a 10:51:41AM

1 full declaration to the Local Government Inspectorate 10:51:47AM  
2 because the gift was over \$500. 10:51:49AM  
3 What was the name of the place - - -?---I think the gentleman's 10:51:53AM  
4 name was John Jenson and he had a coaching and business 10:51:57AM  
5 leadership program - - - 10:52:04AM  
6 Where was that run from?---It wasn't run from a particular 10:52:07AM  
7 institution. He was basically the business coach. 10:52:10AM  
8 Sorry, he was a business coach?---He was working for himself as 10:52:14AM  
9 a business coach. 10:52:17AM  
10 Who bought it?---One of the people in the guests - - - 10:52:21AM  
11 Who?---I don't know. I can't recall, because I didn't run the 10:52:26AM  
12 auction. But all of this is recorded on a video which I'm 10:52:30AM  
13 happy to provide to you which has the full event on it. 10:52:35AM  
14 But I'm just asking you. Here we are, this is a council 10:52:38AM  
15 campaign?---Yes. 10:52:43AM  
16 You've got one person who has bought a coaching course, the 10:52:45AM  
17 value of which goes to you of \$16,000. Don't you know who 10:52:51AM  
18 it was who at the last council election gave you 10:52:59AM  
19 \$16,000?---Mr Tovey, they didn't give me - - - 10:53:07AM  
20 Don't you know? It's a simple question. Do you know who it 10:53:10AM  
21 was or don't you know who it was?---Your question is wrong 10:53:13AM  
22 because I didn't get \$16,000. I said the value of it was 10:53:16AM  
23 \$16,000, but it may have been purchased for two or \$3,000. 10:53:19AM  
24 That's the point of the auction. People buy things at 10:53:23AM  
25 value prices to support the candidate and, no, I don't 10:53:27AM  
26 know who bought it because there were 300 people there and 10:53:30AM  
27 I was paying attention to a million things while the 10:53:33AM  
28 auctioneer, the MC, was conducting the auction. I don't 10:53:35AM  
29 know. 10:53:39AM

1 So there wasn't a contribution to your campaign then of \$16,000 10:53:41AM  
2 arising from the provision by John Denton of the coaching 10:53:48AM  
3 course, is that your recollection? That in fact although 10:53:55AM  
4 what you thought was valued at \$16,000, you only got 10:53:59AM  
5 \$3,000?---No, it's what he said it was valued at and 10:54:05AM  
6 that's how it was advertised at the auction. But 10:54:11AM  
7 obviously when you buy these things at a fundraiser, the 10:54:14AM  
8 whole point is you don't pay full price. So the people 10:54:17AM  
9 who come to these fundraisers want to support the 10:54:19AM  
10 candidate and they're also happy to grab value for 10:54:22AM  
11 themselves by buying products. He may have liked me. It 10:54:24AM  
12 may not be worth 16,000. It may be worth more. It may be 10:54:28AM  
13 worth less. But I can only go on his word and that's how 10:54:31AM  
14 it was advertised. So, you know, 300 million things have 10:54:34AM  
15 gone through my life since that time, so I don't remember 10:54:38AM  
16 every intricate detail. But to my credit the whole event 10:54:42AM  
17 is actually professionally videotaped and that was another 10:54:46AM  
18 gift, by the way, from a friend of mine who - - - 10:54:49AM  
19 Look, forget about that. Can you just tell me about the app 10:54:52AM  
20 development. Who provided that?---What, sorry? The app 10:54:54AM  
21 development? 10:55:02AM  
22 Yes?---A friend of mine by the name of Michael Finn. 10:55:02AM  
23 Michael?---Finn. 10:55:06AM  
24 How do you spell that?---F-i-n-n. 10:55:08AM  
25 And how much did that sell for?---Maybe 500, 600, maybe a 10:55:15AM  
26 thousand dollars. I can't remember. 10:55:27AM  
27 Then getting back to the cash deposits. 14 November, three 10:55:41AM  
28 \$2,000 deposits, \$6,000. On 4 January 2017, \$4,000. Then 10:55:51AM  
29 another Zagames cheque of \$7,000, and then on 31 January 10:56:14AM

1 of 2017 you've got a total of nine deposits totalling 10:56:29AM  
2 \$17,900. Do you recall any of those sets of 10:56:39AM  
3 deposits?---No, I don't. 10:56:46AM  
4 On 5 February 2017 you have seven deposits totalling \$13,000. 10:56:52AM  
5 Can you recall any of those?---No, I don't. 10:56:59AM  
6 From 8 February 2017 you got four deposits totalling \$7,000, is 10:57:04AM  
7 that right? Do you recall any of those?---No, I don't. 10:57:15AM  
8 COMMISSIONER: Are these all cash deposits, Mr Tovey? 10:57:25AM  
9 MR TOVEY: All cash deposits, yes. 10:57:28AM  
10 COMMISSIONER: Mr Aziz, yesterday Counsel Assisting early in 10:57:33AM  
11 the examination asked you whether or not, other than the 10:57:37AM  
12 cash that Mr Woodman was giving you, did you receive or 10:57:42AM  
13 get cash from any other source between the period from 10:57:47AM  
14 2014 to 2018. Do you recall him asking you that?---Yes, 10:57:51AM  
15 I do. 10:57:57AM  
16 And what did you say?---I said no. 10:57:58AM  
17 Why was that?---Well, because the answer is no. When you're 10:58:01AM  
18 talking about cash, I didn't consider the proceeds of the 10:58:10AM  
19 dental surgery or anything I won on Keno as cash. 10:58:15AM  
20 I thought he was talking about other people giving me cash 10:58:19AM  
21 in the way John Woodman gave me cash when I invested the 10:58:21AM  
22 \$600,000 with him. So this is why I said no. And the 10:58:24AM  
23 answer is still no, sir. 10:58:31AM  
24 I'm sorry, I don't understand. How can the answer be no? 10:58:38AM  
25 You've explained now that the business was a source of 10:58:42AM  
26 substantial amounts of cash?---(Indistinct). 10:58:46AM  
27 Yes, Mr Tovey. 10:58:57AM  
28 MR TOVEY: On 5 August of 16 there were three deposits 10:59:04AM  
29 totalling \$4,000. Each of these deposits was of irregular 10:59:13AM

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amounts. Can you recall that?---No.

Similarly, on 29 August of 2016 there were a total of three

deposits of irregular amounts totalling \$11,000. Do you

recall that?---No, I don't.

On 5 September there were six deposits totalling \$9,950.

MR RUBENSTEIN: Mr Tovey, are we talking 2016 or 2017?

MR TOVEY: 2016.

MR RUBENSTEIN: Thank you.

WITNESS: Mr Tovey, were they the same deposits that you just

mentioned to me about five or six minutes ago?

MR TOVEY: I don't think so?---I do remember the \$9,950 and

I remember you accusing me of attempting to structure it

and I explained I don't know why it was to that quantum,

that amount of money.

In any event, I take it from what you say that you didn't ever

structure your payments in a way to keep it below a

certain level or you didn't structure them in a way to

make it look like you weren't depositing a round sum,

whether it be 2,000, 4,000, 5,000, 6,000?---Actually, not

depositing a round sum is against my nature because I do

have obsessive compulsive disorder. But to answer your

question, I'm very well aware that AUSTRAC have ways of

identifying structuring. So any attempts of structuring

would be futile on the part of any individual because they

can pick up that pattern. I simply deposited what

I needed to deposit and that was the end of it.

Why do you keep on talking about AUSTRAC?---Because they're the

agency that picks up when people structure money and make

irregular deposits, because I used to work in that

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1 environment and I'm well aware of the work that they do. 11:01:45AM  
2 Anyway, getting back to 2017, just before a vote on C219 in 11:01:51AM  
3 March of 2017 you deposited on 10 March \$4,000. That was 11:02:01AM  
4 in two payments of 2,000. On 13 March there was a deposit 11:02:16AM  
5 of 1,950 and three deposits of 2,000, and there again you 11:02:26AM  
6 ended up with a total of 7,950. Do you recall doing 11:02:33AM  
7 that?---I don't recall doing that and I don't recall what 11:02:42AM  
8 the deposits related to. Nothing to do with Mr Woodman. 11:02:45AM  
9 On 22 March a deposit of \$9,000. On 23 March a deposit of 11:02:55AM  
10 \$7,000. All right?---Yes. So, Mr Tovey, I'm fascinated 11:03:01AM  
11 against those deposits whether you can see the amounts of 11:03:10AM  
12 withdrawals from the account as well. 11:03:14AM  
13 These are simply cash deposits that I'm talking to you. These 11:03:19AM  
14 are deposits which don't, so far as I'm instructed, line 11:03:23AM  
15 up with any withdrawals from any other account?---Okay. 11:03:28AM  
16 I'm not sure how that can be true, because if that was 11:03:35AM  
17 true then I would have accumulated hundreds of thousands 11:03:39AM  
18 of dollars in my account. The reality is that as there 11:03:41AM  
19 were deposits there were also withdrawals and 11:03:45AM  
20 I basically - that was just the nature of my life in terms 11:03:49AM  
21 of what was producing income and what I needed to meet. 11:03:53AM  
22 So you've mentioned deposits, but you haven't mentioned 11:03:56AM  
23 the corresponding withdrawals either from that account or 11:03:59AM  
24 from any credit cards that I had where I would transfer 11:04:02AM  
25 money from that account to pay off those credit cards. 11:04:05AM  
26 What's that got to do - look, what I'm putting to you is that 11:04:09AM  
27 you've been making cash deposits into your account. 11:04:14AM  
28 Clearly that cash has been used once it hits the account 11:04:17AM  
29 for expenses of one sort or another. That's not 11:04:21AM

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disputed?---I just wanted to make sure - - -  
What I'm putting to you is that you've got cash going into your  
account which you use?---That's right.  
And you agree with that?---Of course I agree with that. I had  
a good family business and I was developing properties.  
I had good income coming in from my salary. So, I was  
dealing in a lot of transactions.  
So when did you stop being involved in the dental  
business?---While the practice was sold in 2016 there was  
a handover period and I didn't really stop becoming  
involved until separation in April 2017 because I was  
assisting my ex-wife in terms of integrating into the  
business as an associate dentist rather than as one of the  
owners, and there was a number of disputes that I had to  
resolve on her behalf. One was relating to a complaint  
that had been lodged against her with the Dental Standards  
Board and the other one related to a financial dispute  
that she had with the people that bought the practice.  
So, I continued to be involved right up to the point of  
separation.  
So, in any event, in that period of time up until March of 2017  
going back to the beginning of 2014 there was in that  
space of 27 months, say, I think it's about 27 months,  
you've got well in excess of \$300,000 of cash going in.  
You say all that - and you've got Zagame's cheques,  
I think, to the extent of something like 15 to \$20,000.  
You say that all came from either Keno winnings or from  
the dental business?---If you're talking about a period of  
three years, if I can just take you back through my - -

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11:06:30AM  
11:06:37AM  
11:06:41AM

1 A period of two years and three months?---Okay. 11:06:46AM

2 Now, I simply want to know whether my understanding is correct 11:06:50AM

3 and you'd say all that came from the dental practice - all 11:06:53AM

4 the cash came from the dental practice and the Zagame's 11:06:58AM

5 cheques arose because of Keno winnings?---I want to give 11:07:02AM

6 you statistical validity in terms of my answer, if I may. 11:07:08AM

7 No, I'm just asking you - - -?---The simple answer is yes. 11:07:12AM

8 Thank you very much. We'll now move on. Excuse me, 11:07:15AM

9 Mr Commissioner, I'm just pulling out documents relating 11:07:52AM

10 to a new topic. 11:07:56AM

11 COMMISSIONER: Mr Aziz, while we're waiting, on an unrelated 11:08:10AM

12 matter, have you read the Public Monitor's report 11:08:14AM

13 delivered at the end of the period where she oversaw the 11:08:20AM

14 Casey Council before the administrator was 11:08:25AM

15 appointed?---I haven't read it, but I've been briefed 11:08:30AM

16 about it by one of my colleagues. 11:08:33AM

17 At some convenient time I want to ask you some questions about 11:08:37AM

18 that?---Yes, I would look forward to that opportunity, 11:08:41AM

19 Commissioner. 11:08:44AM

20 MR TOVEY: In around May of 2013 did you become involved with a 11:09:03AM

21 person by the name of Mr Nehme, N-e-h-m-e, is that 11:09:11AM

22 'Neemy'?---Yes. 11:09:17AM

23 Is that pronounced correctly?---'Nemmy' is how it's pronounced, 11:09:18AM

24 yes. His first name is Andrew. 11:09:24AM

25 And was the initial contact that you had in respect of some 11:09:27AM

26 issue he had with the council?---The initial meeting we 11:09:36AM

27 had was just an introduction by a mutual friend. 11:09:44AM

28 And who were those friends?---Some friends of mine from my own 11:09:49AM

29 ethnic community, the Egyptian community. 11:09:56AM

1 And so who were they?---I think - the first person that 11:09:59AM  
2 introduced me to him was a gentleman by the name of 11:10:06AM  
3 Dr Farag. 11:10:09AM  
4 And were other people also involved in this 11:10:13AM  
5 introduction?---I recall there were a couple of people 11:10:20AM  
6 that basically were there when we had a coffee. But they 11:10:23AM  
7 were simply there because they were business associates of 11:10:26AM  
8 his and they were going on to another appointment that was 11:10:30AM  
9 completely unrelated to me. 11:10:32AM  
10 So there was a meeting, was there, where you were introduced to 11:10:34AM  
11 Mr Nehme. Who else was at that meeting?---I don't recall 11:10:40AM  
12 their names. I don't even know these people. They were 11:10:44AM  
13 brought by Mr Nehme to the meeting because after the 11:10:47AM  
14 meeting, which took about 15 to 20 minutes, it wasn't a 11:10:50AM  
15 long meeting, they were going on to a separate meeting 11:10:54AM  
16 totally unrelated to me. So, I don't know who they are. 11:10:57AM  
17 But who were the people - did you have a meeting - forgive me 11:11:00AM  
18 if I misunderstood you. I thought you said you had a 11:11:08AM  
19 meeting where you were introduced?---I was introduced to 11:11:11AM  
20 him by a mutual friend over the phone and then Mr Nehme 11:11:14AM  
21 contacted me and said, 'Love to catch up with you for a 11:11:18AM  
22 coffee. You know, you seem like a very interesting 11:11:24AM  
23 person, I want to get to know you, you know, we could 11:11:26AM  
24 explore,' basically. At that time he had a cafe and he 11:11:29AM  
25 said that he wanted to explore some issues related to 11:11:34AM  
26 marketing and business management because he was aware 11:11:40AM  
27 that I was looking at finishing my Commonwealth career and 11:11:42AM  
28 embarking on business coaching and business management 11:11:46AM  
29 myself, and so we caught up for a coffee for about 10 to 11:11:49AM

1 15 minutes or 15 to 20 minutes, rather, and that was it. 11:11:53AM  
2 And where did you meet?---In the Docklands, opposite my office 11:11:59AM  
3 back then, in the restaurant on the water. 11:12:06AM  
4 So I just want to get this straight. Mr Nehme gets introduced 11:12:09AM  
5 to you by a mutual friend and he wants to meet you because 11:12:15AM  
6 you are an interesting person?---Yes, and Mr Nehme - I was 11:12:19AM  
7 also his councillor representing the commercial area that 11:12:26AM  
8 he had an interest in in Casey, and that's why he was 11:12:29AM  
9 interested in meeting me. He had met my predecessors 11:12:34AM  
10 before and he explained that to me, and that's why he 11:12:37AM  
11 wanted to meet with me as well. I had never spoken to him 11:12:41AM  
12 before that day, even though I had been a councillor for 11:12:44AM  
13 five years. 11:12:48AM  
14 And when you first met with him, did he want anything? Was he 11:12:49AM  
15 after anything? Did he have any proposal that he wanted 11:12:54AM  
16 to see you become involved in?---No, he spoke generally 11:12:59AM  
17 about the Casey Lifestyle Centre where he had an interest, 11:13:05AM  
18 and he spoke to me about some of the work that he's doing 11:13:09AM  
19 to basically try and promote retail in that centre, and 11:13:13AM  
20 then the rest of the conversation was just pure 11:13:17AM  
21 pleasantries. But he never asked me to do anything, no. 11:13:22AM  
22 So what was the Casey Lifestyle Centre?---The Casey Life Centre 11:13:24AM  
23 was the - it was a commercial property in the Fountain 11:13:30AM  
24 Gate precinct. Sorry, I'm getting a message here to start 11:13:36AM  
25 my video, I'm not sure why. Sorry. The Casey Lifestyle 11:13:42AM  
26 Centre was a commercial parcel of land that the City of 11:13:46AM  
27 Casey owned and I understand Mr Nehme had leased or his 11:13:52AM  
28 company or whoever he's representing had leased from 11:13:56AM  
29 council for about a period of 18 to 20 years and it was in 11:14:00AM

1 the Fountain Gate commercial precinct just in the heart of 11:14:05AM  
2 the City of Casey. 11:14:09AM  
3 Was that a large property?---From memory it was, yes. 11:14:11AM  
4 And did he as a result of - if I could just summarise it and 11:14:19AM  
5 tell me if I'm wrong - did he lease a shopping complex 11:14:29AM  
6 which held a number of shops which he subleased?---He 11:14:39AM  
7 leased land I think upon which he later built a shopping 11:14:44AM  
8 complex. 11:14:48AM  
9 Yes?---And I think he subleased those properties to other 11:14:49AM  
10 retailers, big retailers like Forty Winks and so on. 11:14:53AM  
11 All right. So when you first met him, am I wrong in assuming 11:14:57AM  
12 that that lease and issues relating to the lease were 11:15:06AM  
13 matters which he wanted to discuss with you?---We never 11:15:12AM  
14 discussed that at the initial meeting, but in subsequent 11:15:17AM  
15 communications where he may have sent me emails and we may 11:15:21AM  
16 have met again he raised issues in relation to the 11:15:25AM  
17 commercial viability of the lease from council's 11:15:30AM  
18 perspective and all I did then was actually put him in 11:15:34AM  
19 touch with the council officers so that they could resolve 11:15:39AM  
20 those issues together. 11:15:42AM  
21 Well, when you say you may have been involved in emails, is it 11:15:43AM  
22 the case that you were involved in emails?---To the best 11:15:49AM  
23 of my recollection, yes. But the number of emails or the 11:15:54AM  
24 face-to-face meetings is not something that I recall. But 11:15:58AM  
25 there would have been communication either way. 11:16:02AM  
26 So what was the issue about the liability of 11:16:07AM  
27 the lease?---I think he wanted to either extend the lease 11:16:13AM  
28 because he couldn't borrow against those properties with 11:16:18AM  
29 the shorter lease in place, or offer to buy the commercial 11:16:22AM

1 property off the City of Casey. 11:16:28AM

2 And over what period of time did you initially discuss this 11:16:31AM

3 with him?---I can't recall the exact period of time. 11:16:36AM

4 Did you take up his issue with the council?---I referred it to 11:16:43AM

5 the officers for them to engage in discussions with him. 11:16:47AM

6 And did the matter come before council at any stage for 11:16:53AM

7 determination or for endorsement?---Yes. There was a 11:16:59AM

8 consideration that was made after the discussions had been 11:17:06AM

9 had between Mr Nehme and the officers as to whether the 11:17:11AM

10 property is more valuable to the ratepayers if it's kept 11:17:16AM

11 or whether it's actually sold, especially as we're 11:17:19AM

12 embarking upon - we're about to embark upon a \$90 million 11:17:24AM

13 debt to fund Bunjil Place, which is the precinct which we 11:17:28AM

14 built. So, the decision was made by council to engage a 11:17:34AM

15 property consultant to give us that answer. 11:17:37AM

16 And were you happy about that?---The entire council needed to 11:17:41AM

17 consider the recommendations of the property 11:17:45AM

18 consultant - - - 11:17:50AM

19 Who was the property consultant?---I can't recall. Mr Tovey, 11:17:52AM

20 when I say I can't recall, please appreciate that there 11:17:58AM

21 were hundreds of thousands of matters that went through my 11:18:01AM

22 mind as a councillor in any given year, so I can't recall 11:18:03AM

23 those specific details. But they're all part of the 11:18:07AM

24 council records. 11:18:11AM

25 Was it only the one report the council obtained in respect of 11:18:15AM

26 the proposal to sell the lifestyle centre?---No, the 11:18:20AM

27 council had its own internal reports and then a decision 11:18:30AM

28 was made by the senior executive, as in the senior 11:18:33AM

29 officers, to actually seek an independent report to either 11:18:37AM

1 validate or refute the internal calculations. I mean, 11:18:41AM  
2 there was a critical flaw in the internal calculations 11:18:48AM  
3 which were that future value was - - - 11:18:52AM  
4 Look, I don't want to go into that degree of detail. So, in 11:18:55AM  
5 any event a further report was sought. Was that sought by 11:19:01AM  
6 the CEO?---It was sought by the executive and mainly by 11:19:07AM  
7 the director of the area that was responsible for council 11:19:15AM  
8 property. 11:19:19AM  
9 And is that something which you supported?---The whole council 11:19:19AM  
10 made that decision, not me. 11:19:23AM  
11 Yes, I'm asking you did you support that - - -?---Of course 11:19:25AM  
12 I supported that because that was a good policy 11:19:29AM  
13 initiative. 11:19:34AM  
14 In any event, council ultimately sold the lifestyle centre, did 11:19:36AM  
15 they, to Mr Nehme?---After a public tendering process, 11:19:48AM  
16 yes. So do you have the figures of the sale, Mr Tovey? 11:19:52AM  
17 The figures?---M-hmm. 11:20:17AM  
18 No, we'll get there eventually, Mr Aziz. Could the witness 11:20:18AM  
19 please be shown court book pages 6112 to 6115. This is an 11:20:37AM  
20 email from Mr Nehme to his superiors or controllers in 11:21:17AM  
21 Kuwait. The company which he was dealing with was a 11:21:27AM  
22 company which had its head office in Kuwait; is that your 11:21:37AM  
23 understanding?---I believe so. 11:21:43AM  
24 COMMISSIONER: Do you have that on screen, Mr Aziz?---I can see 11:21:50AM  
25 the header and I can see the date and the attachments. 11:21:53AM  
26 MR TOVEY: All right. So this is a report - - - 11:21:58AM  
27 COMMISSIONER: I'm sorry, Mr Tovey, but there's a problem at my 11:22:01AM  
28 end. I don't have this on my screen. 11:22:03AM  
29 MR TOVEY: It's 25 past 11. If we have a 15-minute break, 11:22:10AM

1           maybe that could be addressed, Mr Commissioner. 11:22:15AM

2   COMMISSIONER: Yes. If you wouldn't mind in the meantime 11:22:19AM

3           seeing if you can sort out with Mr Rubenstein how the 11:22:22AM

4           process is to be followed in relation to the documents you 11:22:28AM

5           indicated you wanted access to. We'll adjourn until 25 to 11:22:32AM

6           12. 11:22:40AM

7   MR RUBENSTEIN: Commissioner, just before doing so, just for 11:22:41AM

8           the sake of assisting the tribunal, I won't be back after 11:22:43AM

9           this adjournment, I've got another commitment, but Mr Peck 11:22:48AM

10          will be. He'll be taking my place and representing 11:22:51AM

11          Mr Aziz. 11:22:56AM

12   COMMISSIONER: Thank you for letting me know, Mr Rubenstein. 11:22:57AM

13   MR RUBENSTEIN: Thank you. 11:23:01AM

14   COMMISSIONER: Thank you. 11:23:04AM

15                   (Short adjournment.) 11:23:05AM

16   COMMISSIONER: Yes, good morning, Mr Peck. Are we ready to 11:48:29AM

17          proceed, Mr Aziz?---Yes. 11:48:33AM

18   Yes, Mr Tovey. 11:48:36AM

19   MR TOVEY: Thanks, Mr Commissioner. Now, I think we had asked 11:48:48AM

20          to have up 6112 to 6115, so that's an email from Mr Nehme 11:48:50AM

21          to the Kuwait office. There's it referred to as 'Action 11:49:10AM

22          Kuwait'. The name of the business was Action Real Estate 11:49:17AM

23          or something of that nature, was it?---To the best of my 11:49:23AM

24          recollection if that's what it says, then I suppose, yes. 11:49:31AM

25   Anyway, look, can we just scroll through that to give you the 11:49:34AM

26          opportunity of reading that letter?---Yes. 11:49:38AM

27   Thank you?---Yes. Yes. Yes. Yes. 11:49:57AM

28   Now, in the course of that document there would appear to have 11:51:05AM

29          been an issue as to what the appropriate rent was because 11:51:14AM

1 of issues relating to land tax. Is that an issue of which 11:51:19AM  
2 you were aware?---Mr Nehme may have mentioned that to me. 11:51:23AM  
3 Over a period of time did you become aware that Mr Nehme, 11:51:29AM  
4 according to the council, had allegedly fallen into 11:51:35AM  
5 arrears in payments of rent?---I believe I was advised on 11:51:38AM  
6 this by the council officer responsible for property. 11:51:49AM  
7 And did you intervene on Mr Nehme's behalf in respect of that 11:51:53AM  
8 issue?---I don't recall intervening apart from referring 11:51:57AM  
9 it to the council officer for resolution. It's an 11:52:03AM  
10 operational matter, so it's not something that I could be 11:52:07AM  
11 involved in. 11:52:14AM  
12 In the course of that document you indicated that in the 11:52:15AM  
13 previous week that you as deputy mayor had moved the 11:52:24AM  
14 council to support the sale and to initially get a report 11:52:41AM  
15 from council officers. That had been the case?---To the 11:52:47AM  
16 best of my recollection. 11:52:53AM  
17 He also indicated that he had helped your wife with her dental 11:52:57AM  
18 practice with a health insurance provider. He had a 11:53:04AM  
19 friend who was able to assist her to become a preferred 11:53:10AM  
20 provider for Medibank. Was that the situation?---No, 11:53:15AM  
21 that's inaccurate. 11:53:22AM  
22 Had he assisted you in that regard?---He only introduced me to 11:53:23AM  
23 a representative in Medibank. We had already submitted an 11:53:28AM  
24 application to become a preferred provider and all he did 11:53:34AM  
25 was introduce me to that person. I spoke to that person. 11:53:38AM  
26 He advised me that there were a couple of key documents 11:53:42AM  
27 missing from our application and that upon providing those 11:53:45AM  
28 documents Medibank would consider, and Medibank did 11:53:48AM  
29 consider and gave us preferred provider status a few 11:53:52AM

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months later.

So in that document when he indicates that he expected that you would be compelled or disposed to respond with a favour because of him intervening on your wife's behalf, you would say that's an overstatement of what in fact occurred?---Can I ask you to point out to me where does it say that?

COMMISSIONER: Yes, it would be helpful, Mr Tovey, if you went to the part of the document about which you're questioning Mr Aziz.

MR TOVEY: Could we just have a look through?---I can see it now, sorry. It's on the top of the page of 6114. Yes?---If you don't mind just scrolling down a little bit so I can actually see the paragraph. That's it. No, that would definitely be an overstatement because first of all there was no expectation that there will be a return favour. The process was going to be a long and highly regulated exercise on the part of the City of Casey and I have no power to compel or force the sale of the property. It was all done as a result of a report, an independent report that the council officers sought and, moreover, the sale process was highly controlled by the council officers. So, if any councillor had contacted a prospective purchaser, the rules were that the entire process would stop and there would be action taken and then started again. So, there's no issue of returning a favour because a favour was not offered and they are two separate matters.

COMMISSIONER: I'm not sure if Mr Tovey had asked you that,

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11:55:37AM  
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11:55:57AM

1 Mr Aziz. You moved a motion in relation to this 11:56:00AM  
2 issue?---I moved a motion to begin the process of 11:56:11AM  
3 considering this issue. 11:56:14AM  
4 Of considering what issue? How would you state the 11:56:17AM  
5 issue?---The issue was whether it was in the better 11:56:20AM  
6 interest of the ratepayers of the City of Casey to retain 11:56:23AM  
7 the property and review the lease or dispose of the 11:56:28AM  
8 property and use the proceeds to fund other public 11:56:30AM  
9 infrastructure. 11:56:35AM  
10 And was the prospective purchaser identified?---No, because the 11:56:41AM  
11 process had to go to a public tender, so it could have 11:56:44AM  
12 been Mr Nehme or anyone else that could have purchased 11:56:49AM  
13 that property if the decision had been made to dispose of 11:56:51AM  
14 it. 11:56:55AM  
15 Did you disclose to the council or to your fellow councillors 11:56:55AM  
16 that you had any form of relationship with 11:57:01AM  
17 Mr Nehme?---I didn't have a relationship with Mr Nehme. 11:57:06AM  
18 Like I said, all he did was introduce me to someone at 11:57:10AM  
19 Medibank and, moreover, there was no commercial 11:57:14AM  
20 relationship between us. I made it clear to the council 11:57:19AM  
21 officers that I had representation from Mr Nehme on this 11:57:23AM  
22 issue and I think there may have been emails from myself 11:57:29AM  
23 to the responsible council officer outlining what those 11:57:31AM  
24 representations were. 11:57:35AM  
25 I wasn't asking you about his representations to you on this 11:57:37AM  
26 issue. I was asking whether or not you told any of your 11:57:42AM  
27 fellow councillors if you had any previous association or 11:57:45AM  
28 relationship with Mr Nehme?---The answer is no. 11:57:53AM  
29 Thank you. Yes, Mr Tovey. 11:57:56AM

1 MR TOVEY: I now want to take you to - I tender that document 11:58:07AM  
2 of 5 June 2013, Mr Commissioner. 11:58:14AM  
3 COMMISSIONER: Exhibit 257. 11:58:20AM  
4 #EXHIBIT 257 - Document dated 05/06/13 at pp.6112-6115 of the 11:58:21AM  
5 court book. 11:58:21AM  
6 MR TOVEY: I now want to take you to December of 2014 and ask 11:58:22AM  
7 you to look at court book pages 6116 to 6117. Can I just 11:58:29AM  
8 indicate before you look at that that the records show 11:58:51AM  
9 that there was a closed council meeting on 16 December 11:58:54AM  
10 which favoured the sale of the lifestyle centre and after 11:59:03AM  
11 that two councillors wanted rescission. Do you have any 11:59:12AM  
12 recollection of that?---Yes, I do. 11:59:20AM  
13 So that was the situation, that there was a closed council 11:59:25AM  
14 meeting that put forward the sale of the lifestyle centre. 11:59:28AM  
15 After that closed council meeting two of the councillors 11:59:37AM  
16 wanted that decision rescinded. Is that a fair summary of 11:59:41AM  
17 it?---That's my recollection of it, yes. 11:59:45AM  
18 Had you moved or seconded the sale of the centre?---My 11:59:50AM  
19 recollection is that I moved the motion to begin the 12:00:00PM  
20 process of consideration of the sale. 12:00:03PM  
21 Then if you look at 6116, this is 17 December and this follows 12:00:10PM  
22 upon the meeting that we've just discussed, so starting at 12:00:19PM  
23 6117. What is there is a communication by email from Mike 12:00:22PM  
24 Tyler, the CEO, to you at 8.01 am, and that's to all 12:00:39PM  
25 councillors indicating that he's been advised by 12:00:49PM  
26 Councillors Morland and Serey that they intended to move a 12:00:54PM  
27 notice of rescission; is that right?---Yes. 12:01:00PM  
28 And then you have, moving up the page on to 6116?---Yes. 12:01:08PM  
29 You have there in the second half of the page communications 12:01:20PM

1 with Councillor Rosario where he's told you that - sorry, 12:01:32PM  
2 told you that they had put that through and you indicated 12:01:40PM  
3 it was most disappointing because there were huge benefits 12:01:44PM  
4 to Casey from this and thanking him for his 12:01:47PM  
5 support?---Yes. 12:01:53PM  
6 Is that right?---Yes. 12:01:53PM  
7 And had you sought his support in respect of the motion that 12:01:54PM  
8 you were putting forward?---No, I didn't. But he was one 12:01:59PM  
9 of the councillors that voted for the motion. 12:02:03PM  
10 In any event it would appear from that, would it not, looking 12:02:08PM  
11 at it fairly, that you were seen to be the sponsor of the 12:02:12PM  
12 motion?---Like I said, I initiated the process, yes. 12:02:15PM  
13 And then there is further up the page a further communication 12:02:20PM  
14 with Rosario where you indicate it's doubtful that they've 12:02:35PM  
15 got the numbers to overturn it, and then at the top of 12:02:42PM  
16 the page, 'The numbers are solid in our favour.' This is 12:02:47PM  
17 what you're saying to Rosario. 'The problem is that the 12:02:52PM  
18 officers will try to baffle us with more rubbish figures. 12:02:56PM  
19 Hopefully everyone will see through that.' So the council 12:03:00PM  
20 officers were against the move, were they, and providing 12:03:07PM  
21 rubbish figures?---Yes. I'm not sure if 'the numbers are 12:03:11PM  
22 solid in our favour' was referring to the voting numbers. 12:03:16PM  
23 I think I was referring to the financial modelling as to 12:03:20PM  
24 whether a sale decision should be taken or not. 12:03:24PM  
25 All right. In any event, when we get to the top you're worried 12:03:32PM  
26 that the officers who are trying to argue against the sale 12:03:38PM  
27 will provide some more rubbish figures; is that 12:03:45PM  
28 right?---Yes. There was a particular problem with their 12:03:50PM  
29 reports - - - 12:03:53PM

1 Look, I'm not concerned. I simply want to know who was in what 12:03:53PM  
2 position rather than what arguments might have been able 12:03:58PM  
3 to be made either way. You understand 12:04:01PM  
4 that?---(Indistinct). 12:04:08PM  
5 All right. Then we move from there to - I tender that document 12:04:08PM  
6 of 17 December 14, Mr Commissioner. 12:04:24PM  
7 COMMISSIONER: It's an email chain, is it not? 12:04:27PM  
8 MR TOVEY: Yes. 12:04:32PM  
9 #EXHIBIT 258 - Email chain of 17/12/14. 12:04:32PM  
10 COMMISSIONER: Mr Aziz, how would you describe your 12:04:47PM  
11 relationship with Mr Nehme at this time, 2017?---2017? 12:04:50PM  
12 Yes?---By 2017 Mr Nehme and I had become friends, but back in 12:04:59PM  
13 2014 he was simply a constituent that I was advocating 12:05:14PM  
14 for. 12:05:19PM  
15 Mr Tovey, are you intending to take Mr Aziz to the loan that he 12:05:20PM  
16 says he obtained from Mr Nehme and which was the subject 12:05:30PM  
17 of a repayment in 2017? 12:05:35PM  
18 MR TOVEY: I am. 12:05:38PM  
19 COMMISSIONER: Very good. Yes, Mr Tovey. 12:05:39PM  
20 MR TOVEY: I now want to move on to 2015 and 6164. 12:05:48PM  
21 COMMISSIONER: Look, I should have asked you, Mr Aziz: the 12:06:07PM  
22 decision as to whether or not the council should sell this 12:06:12PM  
23 substantial piece of real estate, a significant issue for 12:06:18PM  
24 the council?---In more ways than one, Commissioner. 12:06:23PM  
25 Yes. And yet the decision, as I understand your evidence, was 12:06:29PM  
26 made not in the council chambers but before the council 12:06:34PM  
27 meeting?---No, that's not how decisions are made. They 12:06:41PM  
28 have to be made in a council chamber. 12:06:45PM  
29 You know what I'm asking you, Mr Aziz. Where was the question 12:06:48PM

1 of whether the council should support the sale of this 12:06:54PM  
2 property, where was that discussed?---So the way it works 12:06:59PM  
3 is that a councillor - - - 12:07:08PM  
4 No, I don't want to know the way it works. I want to know 12:07:08PM  
5 where it was discussed?---In the council chamber, in 12:07:11PM  
6 closed council meeting. 12:07:16PM  
7 At a closed council meeting, and then the decision was what? 12:07:17PM  
8 How did that become public?---Because council commissioned 12:07:22PM  
9 an independent report to advise it as to whether it should 12:07:28PM  
10 sell the property or not, and then it was decided that the 12:07:32PM  
11 matter needed to be debated in open council because a sale 12:07:37PM  
12 is an open process. 12:07:42PM  
13 Yes. So one of the observations made by the Public Monitor 12:07:44PM  
14 when Ms Gardner reviewed the processes being followed at 12:07:50PM  
15 Casey Council was in relation to en bloc voting and what 12:07:54PM  
16 she described as 'the low level of transparency and 12:08:01PM  
17 accountability created by the extended agenda of items 12:08:06PM  
18 which are resolved en bloc with no discussion. Casey 12:08:12PM  
19 councillors meet before the council meeting and decide 12:08:19PM  
20 those business items they wish to withdraw for discussion 12:08:22PM  
21 at the council meeting.' So, unless a councillor 12:08:30PM  
22 indicates prior to the council meeting that they want the 12:08:35PM  
23 issue discussed and dealt with in a public setting, the 12:08:42PM  
24 matters are dealt with prior to the public process; 12:08:48PM  
25 correct?---That is entirely incorrect, Commissioner. 12:08:54PM  
26 I see. And so is Ms Gardner in error when she says that, 'The 12:08:58PM  
27 result is that the majority of items are not being 12:09:06PM  
28 discussed in open council meetings'?---That is entirely 12:09:09PM  
29 incorrect and demonstrates a complete misunderstanding of 12:09:15PM

1           what she was doing. 12:09:19PM

2   Well, in the case of this particular decision that's what 12:09:22PM

3           followed, isn't it - - -?---No. 12:09:28PM

4   Because it was decided before the public meeting; it wasn't a 12:09:29PM

5           matter of discussion or debate at the public meeting, was 12:09:36PM

6           it?---No, it had to be a matter of debate and discussion 12:09:39PM

7           at the public meeting because, if I may have a little 12:09:42PM

8           latitude to explain, Commissioner? 12:09:45PM

9   I'd rather you didn't, Mr Aziz, unless you are telling me that 12:09:48PM

10          the decision that was made before the council meeting was 12:09:54PM

11          then fully discussed at the public meeting. Is that what 12:09:59PM

12          you say happened?---There was no decision made before the 12:10:04PM

13          meeting. The decision was made at the meeting and 12:10:07PM

14          discussed at the meeting, and this is what I'm trying to 12:10:08PM

15          explain to you, Commissioner. 12:10:12PM

16   It either was or it wasn't. You say it was discussed at the 12:10:13PM

17          public meeting?---It had to, most definitely. 12:10:17PM

18   All right. Yes, Mr Tovey?---So I think it would be most unfair 12:10:20PM

19          if I don't elaborate on that point to clarify a 12:10:26PM

20          misunderstanding that Ms Gardner had. So we're confusing 12:10:30PM

21          two issues here. 12:10:34PM

22   Yes, what do you want to say about that?---Well, I want to say 12:10:35PM

23          that the reports that are moved en bulk are reports 12:10:38PM

24          written by the officers with recommendations. So if 12:10:42PM

25          they're moved en bulk, it means the elected council agrees 12:10:45PM

26          with the officers' recommendations. In addition to that, 12:10:49PM

27          there is a section of the council meeting where 12:10:52PM

28          councillors put forward what are called notices of motion. 12:10:54PM

29          These are policy propositions by councillors that are made 12:10:58PM

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public and debated at every meeting. In this instance in relation to the lifestyle centre, what I put forward was actually a notice of motion to initiate the process, so it had to be discussed. Notices of motion can't pass en bulk.

Was it discussed?---Yes, it was. It had to be.

And did anyone on the council speak out against the

motion?---The two councillors who proposed - well, one of the councillors who proposed the rescission because the council officers were against it, and his view was that we always followed the advice of the councillor officers, so he spoke against it. And if you are talking about a voting bloc, he was actually a fellow Liberal and so is Councillor Serey, or former Councillor Serey, who seconded his recession. So there was no voting bloc. It was an open debate where people could decide for themselves based on the issues.

Mr Aziz, you understand the word of the meaning of the word

'rescission'?---To rescind a decision that has already been taken by council.

Correct. You just told me that no decision had been

taken?---The decision that was taken was to commence the process of considering a possible sale. So they were even against that, against commencing any process. They wanted to leave them exactly as it was.

Where was that decision made?---At the council meeting in closed council.

Thank you. Yes, Mr Tovey.

MR TOVEY: I just want to go back to 2013, around the time that

12:11:02PM  
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12:11:21PM  
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12:12:29PM  
12:12:31PM  
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12:12:36PM  
12:12:46PM

1 you first met Mr Nehme. Could you look at 6162, 6163. 12:12:55PM  
2 Now, that's an email whereby Mr Nehme sends you 12:13:27PM  
3 confirmation of an electronic transfer to you of \$2,200 in 12:13:37PM  
4 July 2013. That's 23 July 2013. What was the \$2,200 he 12:13:46PM  
5 was giving you in July 2013?---They were to purchase two 12:13:56PM  
6 tickets at a fundraiser for then Opposition leader Tony 12:14:03PM  
7 Abbott. I was trying to get a table together, and all the 12:14:10PM  
8 money that came from me and went to the Liberal Party 12:14:13PM  
9 contributed to the campaign of the Honourable Jason Wood, 12:14:18PM  
10 Member for La Trobe, who was my local Federal member. And 12:14:22PM  
11 Mr Nehme was one of the people that I approached about 12:14:26PM  
12 actually attending this event, and he said he was happy to 12:14:31PM  
13 buy two tickets, one for him and one for his wife, at a 12:14:35PM  
14 function held at the Crown at \$1,000 a head. 12:14:40PM  
15 I want to move on back to the beginning of 2015. I tender that 12:14:45PM  
16 document, Mr Commissioner. 12:14:51PM  
17 COMMISSIONER: Exhibit 259, email from Mr Nehme to Mr Aziz 12:14:53PM  
18 dated 23 July 2013. 12:14:57PM  
19 #EXHIBIT 259 - Email from Mr Nehme to Mr Aziz dated 23/07/13. 12:14:54PM  
20 MR TOVEY: Could you look at 6164, please. Now, if you look at 12:15:09PM  
21 the date, which is important, this is an email from Andrew 12:15:32PM  
22 Nehme to you on 15 January 2015 at 11 am. You'll see it's 12:15:37PM  
23 headed up 'Action Realty arrears of rent' and says, 'Dear 12:15:54PM  
24 councillor, I write to you as my ward member to express my 12:16:04PM  
25 concern at the way I'm being accused by the council 12:16:08PM  
26 officers and now the council appointed lawyers of not 12:16:12PM  
27 paying the rent', and then he goes on to indicate that 12:16:17PM  
28 he's being - to the effect that he's being harassed in 12:16:21PM  
29 respect of rent, part of which he doesn't owe and letters 12:16:27PM

1 of demand which haven't been appropriately served; is that 12:16:40PM  
2 right?---Apparently. 12:16:45PM  
3 That is letters of demand from the council to him demanding 12:16:51PM  
4 arrears. Now, was that the first you knew of 12:16:55PM  
5 that?---I think he discussed with me issues of the rent 12:17:01PM  
6 earlier than that, and certainly the responsible council 12:17:05PM  
7 officers had discussed those issues as well. But again 12:17:08PM  
8 it's an operational matter in which I could have no 12:17:11PM  
9 influence or involvement. 12:17:13PM  
10 COMMISSIONER: I don't follow that. 12:17:21PM  
11 MR TOVEY: I'll take the witness to the next document. When 12:17:23PM  
12 you say it's an operational matter, you're saying that it 12:17:26PM  
13 would have been unethical for you to intercede on his 12:17:30PM  
14 behalf in respect of rent with a council officer?---No, 12:17:34PM  
15 I can represent his views to a council officer, but 12:17:39PM  
16 I can't make the decision for him. The council officer 12:17:41PM  
17 has to make the decision because it's an operational 12:17:46PM  
18 matter. But I got millions of these emails in any given 12:17:48PM  
19 year from a whole host of constituents asking me to 12:17:52PM  
20 intervene when they felt that they weren't treated 12:17:55PM  
21 appropriately by the council officers, and all I can do in 12:17:58PM  
22 operational matters is represent those views to the 12:18:01PM  
23 council officers. I can't make the decision. 12:18:05PM  
24 So did you do that?---I can't recall. Possibly. I may have 12:18:08PM  
25 forwarded this to - - - 12:18:13PM  
26 Did you have any information as to whether the information you 12:18:14PM  
27 were being given was correct, that is the information by 12:18:17PM  
28 Mr Nehme?---It's not really for me to verify that because 12:18:22PM  
29 again that will lead to a decision and it wasn't - I can't 12:18:27PM

1 make a decision in relation to these matters. 12:18:32PM

2 I'm not asking you about whether you made a decision. I'm 12:18:33PM

3 asking you whether you intervened. Did you forcefully put 12:18:36PM

4 forward Mr Nehme's view that he had been mistreated and in 12:18:44PM

5 fact he shouldn't be pursued for rent?---When any 12:18:51PM

6 constituent - - - 12:18:56PM

7 No, I'm just asking you - I'm not asking you what the 12:18:58PM

8 constituent did. I'm simply asking you what you did; do 12:19:01PM

9 you understand?---I may have - - - 12:19:05PM

10 Did you forcefully represent to a council officer his views 12:19:07PM

11 about his rent and whether he had been properly treated? 12:19:11PM

12 Did you do that forcefully or not?---I wouldn't say 12:19:15PM

13 forcefully. But, I mean, you're not even allowing me to 12:19:18PM

14 contextualise what you're saying. So you're actually 12:19:24PM

15 reaching conclusions that are totally erroneous. 12:19:28PM

16 I'll let you have a look at 3135 - sorry, 6135 to 6137. 12:19:30PM

17 COMMISSIONER: I'll mark that email exhibit 260, email of 12:19:42PM

18 15 January 2015 from Mr Nehme to Mr Aziz. 12:19:48PM

19 #EXHIBIT 260 - Email of 15/01/15 from Mr Nehme to Mr Aziz. 12:19:52PM

20 MR TOVEY: 6135. This is a letter dated Monday, 19 January, 12:20:04PM

21 which refers to a conversation that you had on the phone 12:20:24PM

22 on 'last Thursday'; do you see that?---Yes. Yes. 12:20:34PM

23 All right. So if you just go back to that then. If we start 12:21:10PM

24 up the top. 'Further to our conversation last Thursday 12:21:14PM

25 afternoon, I'm writing to respond to your concerns raised 12:21:18PM

26 regarding alleged staff conduct in respect to the letter 12:21:25PM

27 of demand sent to Action Realty'?---Yes. 12:21:33PM

28 It goes through your complaints. 'You requested that 12:21:40PM

29 I investigate why it was sent to the wrong address, why we 12:21:46PM

1 sent a letter of demand for payment that we are not 12:21:49PM  
2 entitled to, and if in fact the tenant is more than 12:21:51PM  
3 12 months in arrears why are they just hearing about it 12:21:59PM  
4 now'?---Yes. 12:22:03PM  
5 And then she goes on, does she not, if we just scroll down very 12:22:04PM  
6 gently, to give you an explanation?---Yes. 12:22:09PM  
7 If you just go on?---M-hmm. 12:22:21PM  
8 Now, that seemed to be a reasonable response to what you had 12:22:27PM  
9 raised?---I have no question. 12:22:31PM  
10 COMMISSIONER: Was that what you meant by your earlier answer 12:22:39PM  
11 when you were making the point that you had a very limited 12:22:41PM  
12 capacity to do anything about Mr Nehme's concerns?---Not a 12:22:44PM  
13 limited capacity but a legislative prohibitive capacity. 12:22:50PM  
14 I couldn't intervene in an operational matter. All 12:22:54PM  
15 I could do is take the concerns that a constituent 12:22:57PM  
16 raises - I mean, this constituent could have been 12:23:01PM  
17 complaining about unmowed grass in front of the park in 12:23:03PM  
18 his house. I would do exactly the same thing for him or 12:23:06PM  
19 her. So all I could do is take the complaint, present it 12:23:10PM  
20 to the council officers, the council officers provide the 12:23:13PM  
21 information, I then send back to the constituent and 12:23:16PM  
22 that's the end of the matter. Anything beyond that the 12:23:19PM  
23 constituent has to resolve with the council officers, not 12:23:23PM  
24 with me. I can only make representations. And this would 12:23:26PM  
25 have been one of a million such communications that 12:23:29PM  
26 I would have made in my time as a councillor. 12:23:32PM  
27 According to the email, Mr Aziz, you requested that certain 12:23:45PM  
28 things be done. You weren't simply communicating 12:23:50PM  
29 Mr Nehme's complaint, were you?---I was asking why; why 12:23:57PM

1 was the complaint generated. I wasn't asking for anything 12:24:02PM  
2 to be done. I was asking why did he raise his concerns; 12:24:07PM  
3 what did we do that we could do better in future. 12:24:12PM  
4 MR TOVEY: Can we just scroll down, please? Keep on going. 12:24:17PM  
5 This is your email to the council officer, Sally Curtain, 12:24:26PM  
6 who I think - beyond that. Keep on going, please. Thank 12:24:30PM  
7 you very much. 'Dear Sally, all I can say is wow! 12:24:41PM  
8 \$20,000!!!! Are we serious?' What was that 12:24:59PM  
9 about?---I think that might have been in reference to the 12:25:08PM  
10 consultant fees that we were paying for an interim report 12:25:11PM  
11 at that stage, and I just couldn't justify the expenditure 12:25:17PM  
12 of \$20,000 on an interim report, from memory. 12:25:22PM  
13 So at that stage you've got the officers against it. You're 12:25:26PM  
14 proposing that it be sold. Officers are against the sale. 12:25:34PM  
15 They want to get an independent report. And you're 12:25:39PM  
16 saying, 'We can't spend \$20,000 on a report in respect of 12:25:42PM  
17 a property which is going to bring back something well 12:25:48PM  
18 over \$20 million'?---No, I'm saying we couldn't spend 12:25:52PM  
19 \$20,000 on an interim report, but I think we spent close 12:25:59PM  
20 to \$80,000 on the proper report that recommended the sale 12:26:02PM  
21 as a result of contractors appointed by the council 12:26:08PM  
22 officers to do that process. It was a timing issue, and 12:26:11PM  
23 I just said - my thinking was that the whole matter should 12:26:16PM  
24 be put on hold until we're able to get a proper report 12:26:20PM  
25 rather than waste \$20,000 on an interim report. 12:26:23PM  
26 'Secondly, on what authority is the mayor and CEO acting in 12:26:30PM  
27 commissioning this consultancy?' This is you simply 12:26:35PM  
28 making enquiries, is it?---We don't have - as mayor you 12:26:40PM  
29 don't have any power to appoint consultants. 12:26:45PM

1 I know. But this is you simply making enquiries? Is this the 12:26:48PM  
2 light-handed touch you normally adopted in your approach 12:26:52PM  
3 towards your dealings with council officers in respect of 12:26:57PM  
4 matters in which you had an interest?--I have interest in 12:27:01PM  
5 millions of matters, and I have enjoyed great respect 12:27:06PM  
6 amongst the council officers. And things can get very 12:27:09PM  
7 robust and this - I am forthcoming in my communication. 12:27:15PM  
8 But nobody has ever taken offence to it. 12:27:17PM  
9 That might be a matter of debate, but let's move on?---No, sir, 12:27:20PM  
10 it's - - - 12:27:25PM  
11 'On what authority is the mayor and CEO acting in commissioning 12:27:26PM  
12 this consultancy? Can you please advise me of 12:27:30PM  
13 the relevant legislative provisions applicable here, one 12:27:35PM  
14 because I would like them tested, and two, because I am 12:27:39PM  
15 going to expose them publicly as a critical flaw that 12:27:42PM  
16 facilitates the unaccountable waste of taxpayers' money.' 12:27:47PM  
17 Why were you so scared of getting an independent 12:27:53PM  
18 report?---I'm sorry, where are you reading this? I can't 12:27:55PM  
19 even see that. 12:27:59PM  
20 The second paragraph. I mean, what you are doing there is 12:28:01PM  
21 braining this poor person in respect of doing something 12:28:03PM  
22 which on the face of it seems pretty reasonable. Why are 12:28:04PM  
23 you so revved up about it, Mr Aziz? Was it because that 12:28:07PM  
24 you had a special arrangement with Mr Nehme that you felt 12:28:12PM  
25 that you needed to intercede in such a strident fashion on 12:28:15PM  
26 his behalf?---No, it's because at the time we were 12:28:22PM  
27 considering organisational reform along the lines of a 12:28:27PM  
28 whole heap of matters, and this was one issue where I felt 12:28:32PM  
29 that if we're going to engage consultants that it's a 12:28:36PM

1 decision that should be taken by the whole council and 12:28:39PM  
2 then given to the officers as a proper direction from 12:28:43PM  
3 council to engage those consultants. There was a bit of 12:28:46PM  
4 political playing, and I would represent any of my 12:28:50PM  
5 constituents with the same degree of fervour and the same 12:28:53PM  
6 degree of passion, and there are records of me doing 12:28:57PM  
7 exactly the same thing no matter what the matter is. It 12:29:00PM  
8 had nothing to do with who Mr Nehme was or what I knew of 12:29:03PM  
9 him. Absolutely nothing. 12:29:07PM  
10 Look, you go on to complain that the report, the original 12:29:08PM  
11 report, was so flawed that it failed to convince seven 12:29:19PM  
12 councillors. I take it you are there referring to the 12:29:23PM  
13 vote that you led to sell the property; is that the case, 12:29:27PM  
14 that that's what you were referring to when you're talking 12:29:35PM  
15 about it failing to convince seven 12:29:39PM  
16 councillors?---Possibly, and the report was indeed flawed 12:29:42PM  
17 in more respects than one. 12:29:46PM  
18 Then you're referring to the email that we've just been looking 12:29:48PM  
19 at responding to your complaints on behalf of Mr Nehme 12:29:51PM  
20 about his rent . You say this, 'Fourthly, I have just 12:29:59PM  
21 become aware this afternoon, after I sent my email, of 12:30:03PM  
22 some extremely disturbing information about this matter. 12:30:09PM  
23 Please be advised that I will now be moving urgent 12:30:13PM  
24 business in camera to alleged officer conduct, and will 12:30:17PM  
25 circulate written evidence in support of this motion. 12:30:25PM  
26 I will be asking the mayor to clear the chamber, except 12:30:29PM  
27 for the CEO and yourself.' What's that about?---I may 12:30:32PM  
28 have had a complaint in relation to the conduct of one of 12:30:37PM  
29 our council officers, and that is just our normal process 12:30:40PM

1           when we're discussing staffing matters - - - 12:30:43PM

2   What you're referring there to is Mr Nehme's complaint that he 12:30:46PM

3           hadn't been treated fairly about his rent?---There may 12:30:49PM

4           have been additional information further to the email that 12:30:52PM

5           you have in your possession indicated to me that there was 12:30:55PM

6           improper officer conduct that the CEO needed to be dealing 12:31:00PM

7           with. 12:31:04PM

8   I mean, what you are proposing there, I'd say, with respect, is 12:31:04PM

9           pretty brutal on the basis of something Mr Nehme has told 12:31:13PM

10          you, 'Please be advised I will now be moving an urgent 12:31:16PM

11          business in camera in relation to officer conduct.' So on 12:31:21PM

12          the basis of what Nehme has told you you are going to move 12:31:26PM

13          a motion in camera criticising an officer of the council. 12:31:31PM

14          Where did your loyalties lie?---My loyalties lie with 12:31:41PM

15          the organisation and the ratepayers of the City of Casey, 12:31:46PM

16          and I have no idea how you reach that fantasy filled 12:31:48PM

17          conclusion that that's what the motion was about. 12:31:54PM

18   And you say, 'I will circulate written evidence in support of 12:31:56PM

19          this motion. I will be asking the mayor to clear the 12:32:00PM

20          chamber.' Are you wanting to do this whilst you move a 12:32:06PM

21          motion damning a council officer?---Mr Tovey, do you 12:32:09PM

22          actually understand how local government works, how we 12:32:16PM

23          take these decisions in relation - - - 12:32:19PM

24   If you would rather not answer, we will just move on then, 12:32:21PM

25          Mr Aziz?---I want to answer it, but I want to answer it 12:32:25PM

26          contextually because you are making allegations against me 12:32:28PM

27          that are plain ridiculous. I cannot move a motion damning 12:32:31PM

28          a council officer. I can only ask the CEO to investigate 12:32:35PM

29          the behaviour. Only the CEO can be instructed by the 12:32:38PM

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councillors through a council resolution to do anything.  
But you can't make operational decisions on their behalf  
relating - - -  
Mr Aziz, you're being somewhat disingenuous, I kindly suggest  
to you?---I'm not.  
I'm not suggesting that you could in fact effectively remove an  
officer or otherwise penalise him. But what I am  
suggesting is that you could cause him a world of harm and  
misery by sponsoring council resolutions criticising that  
officer?---No, because you can't move council resolutions  
criticising officers. You can only direct the CEO to  
investigate allegations against officers, and we are  
respectfully doing it in camera while we clear the chamber  
so that other officers are not aware of it so that it  
doesn't embarrass that particular officer. It happens a  
dozen times at least in any given year in the City of  
Casey because of the number of matters that we transact at  
a council meeting every year.  
You would agree, would you not, that the way it looks when you  
look at the sequence of emails is that Mr Nehme is giving  
you certain information about his rent arrears, that  
you've gone in to bat for him, and in the course of doing  
that you have wanted to cause an investigation of the  
council officer who stood up for the council point of  
view?---He wasn't standing up for the council point of  
view. He was standing for his own point of view, that  
particular officer, from memory. And the council's point  
of view is whatever the councillors decide by a majority  
vote at a council meeting. So I was not going to do him

12:32:41PM  
12:32:44PM  
12:32:47PM  
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1           harm. I was simply asking for the matters that were           12:34:42PM  
2           raised to be investigated by the CEO.           12:34:47PM  
3   And your decision was based upon solely what Mr Nehme had told           12:34:49PM  
4           you?---Absolutely not. It was actually based on the           12:34:53PM  
5           information that was presented in the officer's report           12:34:56PM  
6           which was quite erroneous and incorrect. And I wish you           12:34:58PM  
7           had seen - - -           12:35:08PM  
8   Did you establish that because that's what Mr Nehme told           12:35:09PM  
9           you?---I established that from my own self analysis of the           12:35:13PM  
10          report. It doesn't take a genius or an Einstein to work           12:35:16PM  
11          it out, Mr Tovey.           12:35:20PM  
12   Anyway, getting on then with Mr Nehme.           12:35:24PM  
13   COMMISSIONER: That will be exhibit 261, council officer           12:35:32PM  
14          Curtain's email to Mr Aziz of 19 January 2015.           12:35:35PM  
15   #EXHIBIT 261 - Council officer Curtain's email to Mr Aziz of           12:35:53PM  
16          19/01/15.           12:35:38PM  
17   COMMISSIONER: Mr Aziz, at this point of time, January 2015,           12:35:54PM  
18          would you have described your relationship with Mr Nehme           12:35:57PM  
19          as a friend?---No.           12:36:00PM  
20   MR TOVEY: I want to now take you to 6118. That's the KPMG           12:36:30PM  
21          report, is it not, which you were very angry about the           12:37:02PM  
22          fact that that had been commissioned?---No. I was happy           12:37:06PM  
23          about the final report because it was a proper analysis.           12:37:12PM  
24          I don't believe that that refers to the actual full           12:37:17PM  
25          report, if that's what you're intimating. But I was happy           12:37:21PM  
26          with the final report from the consultants.           12:37:25PM  
27   This was a report on 20 January of 2015?---Yes.           12:37:27PM  
28   That was a report, tell me if I'm wrong, that I assume you were           12:37:34PM  
29          referring to in the previous email when you said that           12:37:41PM

1 paying for such a report was an outrage?---I don't believe 12:37:46PM  
2 so, if it was the full report. 12:37:49PM  
3 All right. In any event the summary of that report on 12:37:53PM  
4 20 January 2015 is at page 6125?---Yes, sorry, that may 12:37:58PM  
5 have been the interim report. I think you're right, 12:38:17PM  
6 because I don't think the final report was done by KPMG. 12:38:20PM  
7 'Based on our high level analysis, we would support the general 12:38:24PM  
8 findings of the advice documents and support the premise 12:38:29PM  
9 that holding the property into the future has the 12:38:33PM  
10 potential to derive an improved financial outcome for 12:38:39PM  
11 council.' Now, your view - that's what the report 12:38:43PM  
12 recommended; the report recommended 'do not 12:38:50PM  
13 sell'?---M-hmm. 12:38:55PM  
14 And you certainly did not agree with that?---No, because that 12:38:56PM  
15 report was also flawed in their calculations and that's 12:39:01PM  
16 why we requested a further report. 12:39:06PM  
17 So we then go on. So we're now still in January of 2015. We 12:39:10PM  
18 then go on to - I tender that document, the report, 12:39:24PM  
19 Mr Commissioner. 12:39:32PM  
20 COMMISSIONER: We'll make the email of council officer Curtain 12:39:51PM  
21 to the councillors of 20 January 2015 exhibit 262 and the 12:39:54PM  
22 peer review of KPMG dated 19 January 2015 will be exhibit 12:40:03PM  
23 263. 12:40:08PM  
24 #EXHIBIT 262 - Email of council officer Curtain to the 12:40:00PM  
25 councillors of 20/01/15. 12:39:54PM  
26 #EXHIBIT 263 - Peer review of KPMG dated 19/01/15. 12:40:10PM  
27 MR TOVEY: Could you now have a look at document 6160?---Yes. 12:40:18PM  
28 Now, if you look, that's an email sent from Mr Nehme to you on 12:41:07PM  
29 18 March of 2015?---Yes. 12:41:14PM

1 And he's again seeking your assistance in respect of some 12:41:26PM  
2 dispute he has with the City of Casey?---Yes. 12:41:33PM  
3 And he owes about 400,000 in back rent?---Yes. 12:41:42PM  
4 And the council has called in a bank guarantee?---M-hmm. 12:41:50PM  
5 Unless the rent's repaid by 30 June 2015; is that 12:41:59PM  
6 right?---Apparently, from what I can read, yes. 12:42:07PM  
7 Did you follow through on that with the council to try and 12:42:09PM  
8 assist him in respect of his rent problems?---Once again 12:42:15PM  
9 I may have forwarded the email to a council officer for 12:42:19PM  
10 resolution. 12:42:24PM  
11 Did you speak to anybody about it?---I can't recall. I don't 12:42:24PM  
12 recall. 12:42:32PM  
13 In the end do you know whether he ended up getting called upon 12:42:32PM  
14 to pay that rent or whether Action Realty survived in 12:42:37PM  
15 possession up until - for some years until it was actually 12:42:44PM  
16 able to buy the lifestyle leisure centre?---I can't 12:42:49PM  
17 remember - - - 12:42:56PM  
18 The lifestyle centre?---I can't remember, and once again that's 12:42:56PM  
19 an operational decision that I can't intervene in. 12:42:59PM  
20 You knew that ultimately Action Realty, you knew Mr Nehme did 12:43:04PM  
21 in fact end up buying it?---I knew after the process had 12:43:09PM  
22 ended. 12:43:14PM  
23 COMMISSIONER: Mr Aziz, do you know whether the council 12:43:18PM  
24 withdrew their request for the bank guarantee?---I'm not 12:43:20PM  
25 aware because it's again, Commissioner, an operational 12:43:25PM  
26 decision and I'm not really entitled to ask about that. 12:43:28PM  
27 That's not what I asked you. Do you know whether the council 12:43:34PM  
28 withdrew their request for the bank guarantee?---The 12:43:39PM  
29 answer is, no, I don't know. 12:43:43PM

1 Thank you. 12:43:45PM

2 MR TOVEY: Do you know whether the lifestyle centre was 12:44:11PM

3 ultimately sold to Action Realty?---Yes, council was 12:44:13PM

4 informed after the process had concluded. 12:44:18PM

5 And when was that?---I can't recall the exact date, but it 12:44:21PM

6 would have been - it would have been somewhere in 2016, 12:44:30PM

7 but I can't recall the exact date. 12:44:40PM

8 And was Mr Nehme pleased about that?---I didn't really ask him 12:44:43PM

9 what his views were. But I was certainly pleased because 12:44:50PM

10 we got \$4 million above the valuation in terms of a final 12:44:56PM

11 sale price to the ratepayers of Casey. 12:45:01PM

12 And how much did you end up getting for it?---I think the final 12:45:03PM

13 sale price was around 20 million. 12:45:08PM

14 Did you ever have any - were you friends with Mr Nehme by the 12:45:15PM

15 time it was sold?---I wouldn't - I can't recall. I mean, 12:45:20PM

16 I don't keep diaries of when we make phone calls or catch 12:45:28PM

17 up for coffees or anything else like that. What I do 12:45:32PM

18 know - - - 12:45:36PM

19 I'm not asking you about a diary entry. I'm asking you about 12:45:36PM

20 something that I would suggest you should be able to 12:45:43PM

21 remember. You say that at some stage you became friends 12:45:45PM

22 with Mr Nehme. Here we are Mr Nehme in 2016 some time 12:45:50PM

23 achieving exactly what he wanted and that was for his 12:45:59PM

24 company to actually buy the lifestyle centre. If you were 12:46:02PM

25 friends that's information you would have shared and 12:46:11PM

26 celebrated. So I'm asking you simply were you friends at 12:46:14PM

27 that time?---In the context of your question I would have 12:46:19PM

28 to say no. 12:46:22PM

29 All right. When did you become friends then?---I think after 12:46:24PM

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that process had concluded and he was speaking to me about further aspirations that he had in terms of - he bought another property right behind the lifestyle centre, and he was talking to me about aspirations that he had for developing that property and the sort of jobs it would create and all that, and I said, 'All you could do is prepare a development application and council will look at it. But we're keen on getting jobs.' He was also involved in negotiations we had to try and get a Costco out to the City of Casey. So I said that would be a very exciting proposition and he should have a chat to council, and that's when we started to have a lot more dialogue and discussion about the future of the city and we also became friends, but it was well after the process had concluded.

So on 6 September the lifestyle centre was sold; all right?---Which year, sorry?

2016?---Right.

On 29 September the Nehme Group of Companies, which is NGOC, transferred \$21,000 by EFT into your wife's account. Why was that?---That was part of the loan that I had sought from Mr Nehme which I had to repay, and it was paid in three lots from memory.

A loan? So here we are a matter of weeks after he achieves his aim, the aim that he has been pursuing for years, within weeks he lends you \$21,000 and he's not even your friend at that stage?---No, he was my friend at that stage, and he didn't lend me 21,000. The totality of the lending was \$230,000, and - - -

We'll go through that. I thought you told me at the time that

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1           it was sold you weren't friends. This is at the time it   12:49:06PM  
2           was sold. Either you were or you weren't?---I can't   12:49:10PM  
3           recall when it was sold, Mr Tovey.   12:49:15PM  
4 I have told you that it was sold only a couple of weeks before   12:49:18PM  
5           29 September?---And I confirm to you that at this stage we   12:49:22PM  
6           would have been friends.   12:49:27PM  
7 Mmm?---I said to you at this stage we would have been friends.   12:49:32PM  
8 So when you told me before that you weren't friends at that   12:49:37PM  
9           stage that was wrong, was it?   12:49:40PM  
10 COMMISSIONER: Just a moment. Mr Aziz, do you ever say, 'Look,   12:49:42PM  
11           I'm sorry, I think I've left the wrong impression with you   12:49:50PM  
12           from an answer I previously gave,' or 'I regret the way   12:49:54PM  
13           I expressed myself a moment ago'; do you ever do   12:49:59PM  
14           that?---I'm happy to do that, Commissioner.   12:50:02PM  
15 You left me with the impression - I don't know about Counsel   12:50:05PM  
16           Assisting - that you were not his friend at the time the   12:50:10PM  
17           business was sold, the real estate was sold to him, and   12:50:15PM  
18           that you went on to explain how after various further   12:50:20PM  
19           proposals were explored with Mr Nehme you became his   12:50:27PM  
20           friend. Is that not what you conveyed to me a few moments   12:50:31PM  
21           ago?---I may have done that. But what I'm trying to say   12:50:37PM  
22           is I didn't even know he was in the game to buy the   12:50:41PM  
23           lifestyle centre because the process was so secretive and   12:50:45PM  
24           kept away from the councillors. I didn't even know he was   12:50:48PM  
25           in the hunt to buy the centre. So I can't recall exactly   12:50:51PM  
26           when our friendship started, but obviously Mr Nehme and   12:50:58PM  
27           I talked a lot over the course of the time ever since   12:51:02PM  
28           I began to know him, and that's what I'm trying to convey   12:51:06PM  
29           to you. But I don't know exactly the moment when you can   12:51:10PM

1 call us friends. 12:51:14PM

2 Why didn't you say that when you were first asked were you 12:51:15PM

3 friends? Why didn't you give that answer? Why do you 12:51:20PM

4 wait until Mr Tovey points out that you got a loan from 12:51:25PM

5 him that you then say, 'We were friends', and that then 12:51:28PM

6 flies in the face of your previous answers?---Because it's 12:51:34PM

7 on the record that I got a loan from him and that was 12:51:38PM

8 discussed extensively yesterday. So - - - 12:51:41PM

9 Yes, Mr Tovey. 12:51:46PM

10 MR TOVEY: All right. 12:51:47PM

11 COMMISSIONER: The email from Mr Nehme to Mr Aziz of 18 March 12:51:51PM

12 2015 is exhibit 264. 12:51:55PM

13 #EXHIBIT 264 - Email from Mr Nehme to Mr Aziz of 18/03/15. 12:51:58PM

14 MR TOVEY: So on 29 September 2016 you got a loan of 21,000; is 12:52:08PM

15 that right? You had 21,000 paid across?---I recall the 12:52:20PM

16 total loan was paid across three instalments and 21,000 12:52:27PM

17 may have been one of them. 12:52:31PM

18 Well, there were four instalments, but do you accept that you 12:52:32PM

19 got an instalment - you got a payment into your wife's 12:52:36PM

20 account, and this is something that you ran because you 12:52:40PM

21 did all the finances, you've told us that?---M-hmm. 12:52:43PM

22 So you've told him to pay \$21,000 into your wife's account on 12:52:46PM

23 29 September 2016. Why did you do that?---I can't recall 12:52:51PM

24 if it was my wife's account or the practice account, 12:53:00PM

25 because - - - 12:53:04PM

26 Well, the Armanious Westpac account, what was that?---It could 12:53:05PM

27 have been the practice account. 12:53:09PM

28 I thought the practice account was a family trust?---Yes, but 12:53:13PM

29 it may not have been named according to the bank account 12:53:17PM

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as a family trust account.

So did you need \$21,000 at that stage?---I can't recall exactly what I needed. I know that I had just paid an instalment on the finance loan on the practice when we came to sell it, or before we sold it by a couple of months, and I can't recall. There were several financial commitments at the time, but I can't recall them.

Well, were they commitments that you didn't have the ability to meet from your own resources?---Some of them, yes.

Well, at that stage, this is in September, when you were getting \$21,000 from Mr Nehme, was that because you didn't have \$21,000 which you needed to pay something?---Not necessarily the \$21,000 was the totality of the borrowings that I had from him. I needed that, and for some reason he was only able to pay or lend me the money in instalments.

This was September 2016. When had you raised this with Mr Nehme?---I think possibly - possibly only a few days before I needed the money. And I was confident that given that the sale proceed has concluded totally at arms length from the council that there was no longer a conflict for me to speak to him, because obviously if I spoke to him while he was a participant in the sale process that would be an obvious conflict. But, given that the sale process had concluded, there was no problem about me discussing that with him.

COMMISSIONER: I'm sorry, I don't follow that, Mr Aziz. You have been at pains until now to say that the sale of the real estate had nothing whatever to do with you or the

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1           councillors; it was a matter for the council officers.           12:55:41PM

2           Were you not saying that?---Yes, I was saying that.           12:55:46PM

3    So what's that got to do with conflicts of interest by           12:55:48PM

4           councillors?---I'm saying that the sale was an arms length   12:55:52PM

5           process but, notwithstanding that, any councillor who       12:55:57PM

6           would approach any of the prospective purchasers on any       12:56:01PM

7           matter would have disqualified the entire sale process and   12:56:05PM

8           they would have had to have started all over again.       12:56:08PM

9    But a conflict of interest can only arise if there's two       12:56:11PM

10          competing interests. If the council has no part to play   12:56:14PM

11          in the sale of the property then there is no competing   12:56:20PM

12          interest. So does it rather your comment a moment ago   12:56:23PM

13          that you waited until after the sale of the real estate   12:56:29PM

14          before pursuing the question of the loan suggest that you   12:56:33PM

15          recognised there was a conflict of interest because the   12:56:38PM

16          council did have a role to play?---Only the council       12:56:40PM

17          officers, Commissioner, not the elected council.       12:56:45PM

18    How could you have a conflict of interest then?---I don't   12:56:49PM

19          necessarily have a conflict of interest, but it could be   12:56:55PM

20          seen to be that way, especially in the middle of such a   12:57:01PM

21          high profile sale. So we were given clear instructions as   12:57:06PM

22          councillors that any councillor that would become aware of   12:57:11PM

23          a prospective buyer or approached that prospective buyer   12:57:15PM

24          would invalidate the entire process and it would start   12:57:20PM

25          again, and this is why I did not discuss or approach with   12:57:23PM

26          Mr Nehme any issue while the sale process was being       12:57:26PM

27          conducted.   12:57:29PM

28    Yes. Yes, Mr Tovey.   12:57:33PM

29    MR TOVEY: You knew he was involved as a person offering to   12:57:35PM

1 buy?---I suspected he would be, but I didn't know for sure 12:57:42PM  
2 and I certainly didn't discuss that with him or the 12:57:48PM  
3 council officers. 12:57:50PM  
4 Weren't you circulated with any documents which indicated who 12:57:54PM  
5 was proposing to buy?---From memory, the only document 12:58:01PM  
6 I saw was who was the eventual successful buyer after the 12:58:05PM  
7 conclusion of the entire process. 12:58:08PM  
8 COMMISSIONER: Again, that doesn't make sense either, Mr Aziz. 12:58:11PM  
9 If someone has given you and the other councillors 12:58:14PM  
10 instructions that whilst this sale process is under 12:58:17PM  
11 negotiation that you must not - none of you as councillors 12:58:24PM  
12 must have anything to do with the prospective purchaser, 12:58:27PM  
13 you have to know who it was, wouldn't you, so as to make 12:58:31PM  
14 sure that you would have nothing to do with them?---Back 12:58:37PM  
15 then when they were a prospective purchaser, yes. But 12:58:41PM  
16 when they became an actual purchaser that became a matter 12:58:44PM  
17 of public knowledge, and that's when the councillors were 12:58:48PM  
18 advised. But I didn't know he was in the group of 12:58:51PM  
19 prospective purchasers when the process was being 12:58:56PM  
20 undertaken. 12:58:59PM  
21 Yes, Mr Tovey. 12:59:00PM  
22 MR TOVEY: I notice it's one o'clock, sir. I still have a way 12:59:01PM  
23 to go on this topic. 12:59:04PM  
24 COMMISSIONER: Yes, very good. Before we adjourn, Mr Peck, 12:59:06PM  
25 it's come to my attention that the transcript of 12:59:10PM  
26 the private examination was provided to your office around 12:59:15PM  
27 lunchtime yesterday. So what I would like to do is ensure 12:59:21PM  
28 that if this afternoon Counsel Assisting asks Mr Aziz any 12:59:26PM  
29 questions about Mr Nehme in relation to the \$600,000 loan 12:59:32PM

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which he has given evidence about involving Mr Woodman,  
you need to look at that transcript with Mr Aziz so that  
he's au fait with the evidence that he's given in that  
regard. Do you follow?

MR PECK: Commissioner, that transcript was not received by our  
office yesterday. I understand the Commission thought  
they had sent it to us. It was not received by us until  
after the commencement of this morning's session.

COMMISSIONER: All right.

MR PECK: So we have not had the opportunity to consider that  
transcript at all at this stage. As we indicated prior to  
these hearings commencing, counsel did have some other  
obligations during this timetable which he is now dealing  
with. They will take the balance of today. We set that  
out to the Commission a number of times and, nonetheless,  
the Commission wished to press on with this current  
timetable. As a result the opportunity for counsel to  
review the transcript and advise Mr Aziz will unlikely be  
able to occur today, and there are some constraints  
tomorrow as well. So we would ask for some  
indulgence - - -

COMMISSIONER: Mr Peck, you'll have no indulgence from me in  
that regard. I can see now if you have been giving  
Mr Aziz instructions it is apparent to me why it is that  
Mr Aziz doesn't really answer the questions that are asked  
of him. I want you to ensure that when Mr Aziz resumes  
his evidence this afternoon you have taken the opportunity  
to go through that part of the transcript that deals with  
Mr Nehme's loan so that Mr Aziz is fully aware of what he

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1 told the Commission in private examination. Do you  
2 follow?

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01:01:54PM

3 MR PECK: I follow.

01:01:54PM

4 COMMISSIONER: Very good. Adjourn until 1.45, please.

01:01:56PM

5 <(THE WITNESS WITHDREW)

01:02:01PM

6 LUNCHEON ADJOURNMENT

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