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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY, 10 DECEMBER 2020

(43rd 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

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

1 COMMISSIONER: Good morning, are we ready to proceed? 10:17:46AM
2 MS BORG: Yes, Commissioner. 10:17:49AM
3 COMMISSIONER: Very good. Yes, Mr Tovey. 10:17:50AM
4 MR TOVEY: Thank you. 10:17:55AM
5 <ANDREW NEHME, recalled: 10:17:55AM
6 <EXAMINED BY MR TOVEY, continued: 10:17:59AM
7 We want to go now again to the September council documents. So 10:18:03AM
8 I yesterday took you to the document which was the notice 10:18:11AM
9 and agenda of a meeting. I now want to take you to 10:18:15AM
10 document 3146, which is the minutes of that council 10:18:19AM
11 meeting of 6 September. This, Mr Commissioner, is part of 10:18:24AM
12 exhibit 265. If we go through to page 3148 in the court 10:18:58AM
13 book - it's the third page of the document; that's it - 10:19:14AM
14 you'll see Mr Aziz was the mayor and he chaired the 10:19:25AM
15 meeting, and we see who the other members of council were 10:19:32AM
16 and who else was in attendance. We then go over to the 10:19:41AM
17 next page, and we'll see that no conflicts of interest 10:19:49AM
18 were declared, if we go down to the bottom of the page, 10:19:56AM
19 and then if we go over the page we see the resolution, 10:20:04AM
20 part of which is item 1, which is, 'That council note that 10:20:22AM
21 no submissions were received in response to council's 10:20:28AM
22 notice of intention to sell council-owned land at 430-440 10:20:32AM
23 Princes Highway and 1-9 Regency Drive, Narre Warren.' So 10:20:39AM
24 what's happened at that stage is that on 19 July there has 10:20:45AM
25 been a council resolution whereby Action Real Estate 10:20:56AM
26 Australia is declared to be the preferred proponent, and 10:21:01AM
27 that resolution involved a resolution that if no 10:21:09AM
28 submissions were received in response to public notice of 10:21:15AM
29 the proposed sale the CEO was authorised to execute a 10:21:24AM

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contract of sale. Then looking at the documents we've already looked at, the agenda noted that the council had received contracts of sale on 3 August, and presumably that was receiving signed contracts from your company. Then a notice of intention to sell in accordance with the legislation was advertised in the Age and on the council website on 5 August, closing on 5 September; and then on this date, that is 6 September, the circle is closed when the council certifies that there has been no submission opposed to the sale, and that was done on 6 September and that automatically triggered the previous resolution which enabled the CEO to execute once that had occurred without any further resolutions of council. You understand that?---Yes.

Now, do you have any problem with that chronology?---I don't, but - no, I don't. Sorry, Mr Tovey, when you say do I have a problem, in what sense? As in - - -

Is there anything there you think is incorrect?---From my recollection, no. I think - I've got record here that contracts were confirmed - yesterday the contracts were signed by us on the 3rd of the 8th.

Of July?---Sorry, they were - - -

Sorry, 3 August?---3 August.

Yes?---And my understanding is that council then co-signed on the 9th, is my understanding.

All right. So what's happened is on 19 July you've been confirmed as the preferred proponents subject to somebody responding adversely once the notice advertises the sale. From that point on it would seem that the - sorry, that

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10:23:41AM
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10:23:47AM
10:23:51AM
10:23:54AM
10:24:07AM
10:24:11AM
10:24:23AM

1 that resolution would have been public because it foresaw 10:24:27AM
2 public advertising and people responding. Were you aware 10:24:31AM
3 of the resolution immediately it was passed that you were 10:24:41AM
4 the preferred proponent?---No. No, I was made aware by 10:24:44AM
5 Jones Lang LaSalle. 10:24:49AM
6 Yes, and when was that?---I can't recall exactly when, 10:24:50AM
7 but - - - 10:24:56AM
8 Well, it certainly had to have been on - - -?---It would have 10:24:56AM
9 been just after this, I assume. Around that time. 10:24:59AM
10 I don't have an exact date of when they advised me. 10:25:03AM
11 Contracts were signed on 3 August?---Yes, so - - - 10:25:08AM
12 Sorry, signed contracts were submitted on 3 August. So it must 10:25:11AM
13 be the case that some time on or before 3 August - - 10:25:18AM
14 -?---Yes, my notes here have got mid-July, mid-July that 10:25:23AM
15 we were - and I don't have an exact date, Mr Tovey - we 10:25:27AM
16 went through contracts, et cetera, but Jones Lang LaSalle 10:25:33AM
17 would have all that information of when they provided 10:25:37AM
18 contracts, et cetera. 10:25:39AM
19 Anyway, some time in mid-July you became aware that you were 10:25:40AM
20 the preferred purchaser?---Yes. 10:25:44AM
21 And it was time to start preparing contracts?---Yes. 10:25:48AM
22 And there was no secret about that. I'm not suggesting there 10:25:55AM
23 was. But is that something that you discussed in any way 10:26:01AM
24 with Mr Aziz at the time?---No. 10:26:05AM
25 Given the fact that Mr Aziz had been batting for you for years 10:26:08AM
26 on this issue?---No. No, I was advised by Stuart Taylor 10:26:13AM
27 at Jones Lang LaSalle, who I was dealing with through the 10:26:16AM
28 whole process. 10:26:21AM
29 Sorry, that you were?---Dealing with through the whole process, 10:26:22AM

1 with Jones Lang LaSalle. 10:26:25AM

2 No, I'm not suggesting that Mr Aziz was involved in any way in 10:26:27AM

3 the transactions. I'm simply raising with you this, that 10:26:32AM

4 it would appear on all the material we have that Mr Aziz 10:26:38AM

5 was batting for you on this issue. When I say 'batting 10:26:42AM

6 for you', that's probably a pejorative term; that he was 10:26:45AM

7 supporting you significantly on this issue. The issue 10:26:49AM

8 finally resolved in your favour with you getting what you 10:26:55AM

9 had always wanted. He was a friend of yours. Do you say 10:26:59AM

10 that that's not something you discussed once you both 10:27:05AM

11 realised that you had succeeded in your hopes?---It would 10:27:09AM

12 have been discussed at some point. I can't say when. But 10:27:17AM

13 I'm sure it was discussed, Mr Tovey. 10:27:20AM

14 Yes. Well, it would be surprising, given the background, if it 10:27:22AM

15 hadn't been once it became known that you were the 10:27:25AM

16 winner?---Sure, sure. 10:27:30AM

17 So that's on the 6th, on 6 September. On 30 September - that's 10:27:31AM

18 two weeks later - the first payment from your organisation 10:27:51AM

19 was made into the Armanious account. You understand 10:27:59AM

20 that?---On which date, sorry, Mr Tovey? 10:28:05AM

21 That was on the - sorry, on 30 September there was a payment of 10:28:07AM

22 \$21,000?---Yes. 10:28:13AM

23 Into Ms Armanious's account? 10:28:15AM

24 COMMISSIONER: Mr Tovey, my record is it's 29 September. 10:28:19AM

25 MR TOVEY: I'm sorry, I think I might have misread one of my 10:28:24AM

26 arrows; yes. Could I just double-check that. 10:28:28AM

27 COMMISSIONER: At least that's the date shown on the bank 10:28:35AM

28 statement. 10:28:37AM

29 MR TOVEY: I'm just going back to that. Yes. I picked the 10:28:39AM

1 wrong date. So on the 29th - so it's 13 days later that 10:28:43AM
2 that occurred?---Sorry, 13 days later from? 10:28:49AM
3 Thirteen days after the council gives final approval to the 10:28:54AM
4 sale to you, you make a payment of \$21,000 into the 10:29:04AM
5 account of Mr Aziz's wife. Now, you agree that that did 10:29:14AM
6 occur?---That's the payment in question that I think 10:29:20AM
7 I mentioned yesterday, Mr Tovey, the one that I missed, 10:29:25AM
8 the one I'm embarrassed about and the one that I was made 10:29:31AM
9 aware as recent as last Friday by a member of IBAC to tell 10:29:34AM
10 me that that payment did occur. But, yes, it did come out 10:29:37AM
11 of my account. 10:29:42AM
12 Be that as it may, you now have satisfied yourself that a 10:29:43AM
13 payment of \$21,000 went into Ms Nesrine Armanious's 10:29:50AM
14 account on 29 September?---Yes. 10:29:58AM
15 And is your position you've got no idea why or how that 10:30:00AM
16 occurred because it wasn't part of the \$230,000 10:30:06AM
17 loan?---Hence my embarrassment about it, and I honestly 10:30:11AM
18 don't know - it did come out of my account, there's no 10:30:16AM
19 denying that, as I realised last Friday. But prior to 10:30:19AM
20 that I wasn't aware. I didn't recall that I had lent that 10:30:22AM
21 money. 10:30:27AM
22 So your position must be one of two positions: either it wasn't 10:30:28AM
23 part of the loan or it was part of the loan but when the 10:30:33AM
24 documentation was created you missed it?---It is part of 10:30:38AM
25 the loan, and I've missed it in the documentation, 10:30:44AM
26 embarrassingly. 10:30:47AM
27 COMMISSIONER: Well, Mr Nehme, I find that a very difficult 10:30:49AM
28 explanation to accept, I should tell you, quite frankly. 10:30:51AM
29 You entered into a loan agreement with Mr Aziz, and you 10:30:57AM

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produce a document, which no doubt Mr Tovey will take you
to, dated 1 October 2016 in which you set out each of the
payments that will be made in relation to this loan, the
first to be on 27 October of \$140,000, the next on
15 November 2016 of \$75,000, the third on 25 November 2016
of \$15,000, totalling \$230,000, yet two days before the
date of this document you have paid Mr Aziz \$15,000 - I'm
sorry, \$21,000, which is not referred to in this letter
which is meant to evidence your financial arrangement with
Mr Aziz. How do you explain that?---Commissioner, it's an
error on my part. As I said, I was made aware - - -
What do you mean it's an error?---I beg your pardon?
What do you mean it's an error?---Well, it was an error for me
not picking it up in the agreement - - -
But this is two days - - -?---And I should have picked it up in
the agreement, and I didn't.
No, no, but this is an agreement made almost immediately after
you've put \$21,000 in Mr Aziz's account?---Yes, and, as
I said, I - - -
How did you come to overlook that and say, 'I will now lend you
\$230,000 and the first payment will be on
27 October'?---Commissioner, there were discussions well
before. The man was desperate at the time, and I made an
error in not including it in the loan.
I have to say I find it very difficult to accept that
explanation, Mr Nehme. What do you mean there were
discussions before?---In relation to the money that was
required.
How long had those discussions been going on for?---Within that

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1 week of when he came in a desperate need requesting money. 10:33:07AM
2 Yes?---So within that week. 10:33:15AM
3 And so you responded to that request by immediately paying him 10:33:17AM
4 \$21,000, did you? If it's in that week, presumably you've 10:33:22AM
5 almost immediately then paid this \$21,000 into his wife's 10:33:32AM
6 account?---It did come out of my account, as I said, 10:33:35AM
7 Commissioner. But I can't tell you why I missed it in the 10:33:38AM
8 loan agreement, and I'm now trying to chase it up as of 10:33:44AM
9 last Friday being made aware that it did come out of my 10:33:50AM
10 account. 10:33:53AM
11 You're doing what?---I'm trying to chase it up - - - 10:33:54AM
12 What do you mean?---It's part of the loan. I want that money 10:33:56AM
13 paid back. 10:33:59AM
14 Yes, Mr Nehme. Yes, Mr Tovey. 10:34:01AM
15 MR TOVEY: So, getting back to the arrangement between you, 10:34:11AM
16 you've told the Commissioner that there had been 10:34:16AM
17 discussions for some time. What period of time are we 10:34:19AM
18 talking about before 29 September?---It would have been 10:34:24AM
19 within that week, Mr Tovey. I can't tell you exactly what 10:34:28AM
20 days or times. It was within a week of when he approached 10:34:32AM
21 me. 10:34:36AM
22 Okay. And what precisely did Mr Aziz tell you?---He mentioned 10:34:36AM
23 that he had issues, he had debts, didn't tell me exactly 10:34:45AM
24 what those debts related to, and was looking for a loan. 10:34:53AM
25 At that point I was happy to support him. 10:34:58AM
26 Yes?---And I came back to him and said that, 'I will support 10:35:05AM
27 you, but I don't have all the funds right now.' He was in 10:35:10AM
28 desperate need at the time. 10:35:17AM
29 And at that time you've already told me you didn't know when 10:35:18AM

1 funds would be coming in the future, but you nevertheless 10:35:24AM
2 committed to lend him, what was it, 230 or 10:35:27AM
3 250,000?---Well, it's now 251 obviously, but at the time 10:35:35AM
4 it was 230. 10:35:37AM
5 Yes, so am I right about that? At that stage you - I think you 10:35:41AM
6 indicated to me the other day that - sorry, you indicated 10:35:46AM
7 to me yesterday that you weren't sure when future funds 10:35:49AM
8 were coming but you were confident that funds were coming 10:35:54AM
9 at some time over the next few months to allow you to do 10:35:58AM
10 it?---That's correct. 10:36:00AM
11 All right. And the moneys were paid into the account of 10:36:04AM
12 Ms Armanious, that's the wife of Mr Aziz?---That's 10:36:24AM
13 correct. 10:36:32AM
14 And you knew who she was?---Yes, I did. 10:36:32AM
15 And was that done simply because that's what Mr Aziz asked you 10:36:34AM
16 to do?---Correct. 10:36:40AM
17 Did he give any explanation as to why?---He didn't give an 10:36:43AM
18 explanation, but I do know at the time, Mr Tovey - - - 10:36:48AM
19 I'm just asking you whether he gave you an explanation; thank 10:36:52AM
20 you?---No, I don't recall he did. 10:36:54AM
21 COMMISSIONER: Did you get some security for the loan, 10:36:59AM
22 Mr Nehme?---No, I didn't, Commissioner. 10:37:03AM
23 Did you make enquiries to satisfy yourself that Mr Aziz had the 10:37:07AM
24 financial capacity to repay the loan?---I took his word in 10:37:13AM
25 what he explained to me. 10:37:17AM
26 Yes. 10:37:19AM
27 MR TOVEY: Did you contact your solicitors to have them draw up 10:37:20AM
28 a loan contract?---No, I didn't. 10:37:25AM
29 Did you yourself draw up a loan contract which was signed at 10:37:27AM

1 the time or before the money was handed over?---I did do 10:37:32AM
2 the agreement myself. 10:37:37AM
3 Well, you didn't do that then, though, did you? You did that 10:37:38AM
4 months later?---No, incorrect. 10:37:42AM
5 Well, we'll come to that. Are you seriously saying that the 10:37:45AM
6 agreement that the Commissioner has already raised with 10:37:52AM
7 you whereby you indicate you're going to lend him specific 10:37:58AM
8 sums on specific days in the future was an agreement that 10:38:04AM
9 was made before those sums were in fact obtained by you 10:38:09AM
10 and paid over to him? Be careful - - -?---I believe so. 10:38:16AM
11 That's not possible, I'd suggest to you. You've already told 10:38:22AM
12 me you had no idea in prospect - you didn't know in 10:38:31AM
13 looking forward when the funds were going to arrive. How 10:38:36AM
14 is it that you could have had an agreement giving specific 10:38:40AM
15 dates and specific amounts?---I knew - had a fair idea 10:38:43AM
16 when funds were going to come and I wanted to give him, 10:38:51AM
17 whether they were indicative or - I just wanted to give 10:38:55AM
18 him an idea - I couldn't do it all at once. But I was 10:38:57AM
19 owed a considerable amount of money at the time for my 10:39:01AM
20 consulting work. 10:39:03AM
21 For consulting work?---Yes, and director's fees. 10:39:05AM
22 Yes. 10:39:09AM
23 COMMISSIONER: I'm sorry, now I'm confused, Mr Nehme. You told 10:39:13AM
24 us yesterday that you couldn't now tell us what the basis 10:39:16AM
25 was for the moneys that you withdrew from the Kuwaiti 10:39:21AM
26 company, you couldn't tell us whether they were director's 10:39:29AM
27 fees, consultancy fees, or whether you had just asked 10:39:34AM
28 Sheikh Mubarak to give you the money. Are you now able to 10:39:38AM
29 say that you can remember that there were moneys 10:39:41AM

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specifically owing to you; is that your evidence
now?---Commissioner, the moneys were owing to me. In what
form, I need to go back and tell you exactly what they
relate to. But in most circumstances it's director's
fees, which I mentioned yesterday, or consulting fees.
Now - - -

As I say, I'm confused now because your evidence yesterday was
you couldn't tell the Commission what the basis was on
which these moneys came from the Action Group Australia
account into your account. Are you now able to say that
those were moneys that were transferred because they were
owed to you?---The money was owed to me, Commissioner,
just to be clear. I can't confirm to you right now
whether they were actual director's fees or whether they
were moneys owed for other situations as a consultant.

Yes?---But the money was owed to me, and a lot more than that
was owed to me at the time.

Yes?---And, as you'll see in my statement, a lot more money
came through over time.

I'm sorry, what statement is that?---The bank statement that
you have.

Yes. Yes, Mr Tovey.

MR TOVEY: So, in any event, there was no contract drawn up.
You're not sure whether the memorandum reflecting the
agreement was made at the time or retrospectively some
time later; is that the situation?---Sorry, can you ask
that - repeat that question, please?

COMMISSIONER: I don't think that was his evidence, Mr Tovey.
I think Mr Nehme is saying that the document which

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1 evidences this loan agreement - I take it you'll take 10:41:31AM
2 Mr Nehme to it - - - 10:41:35AM
3 MR TOVEY: Yes. 10:41:37AM
4 COMMISSIONER: Was made at the time it bears on the letter. Is 10:41:37AM
5 that correct, Mr Nehme? You're not suggesting that the 10:41:42AM
6 document evidencing the loan agreement was made at some 10:41:47AM
7 later point of time - - -?---No. 10:41:51AM
8 Than the date bearing on the document?---I don't recall. I'm 10:41:54AM
9 pretty sure it was done at the time. 10:41:58AM
10 That's a strange comment, Mr Nehme?---Sorry? 10:42:00AM
11 That's a strange comment?---Well, it was done at the time - - - 10:42:03AM
12 'I'm pretty sure it was made at the time'?---I'm going back on 10:42:07AM
13 memory, Commissioner, and if it states 1 October then 10:42:12AM
14 that's when it was done. 10:42:17AM
15 Because I take it you're not in the habit of backdating 10:42:19AM
16 documents that evidence commercial arrangements?---No, 10:42:22AM
17 Commissioner. 10:42:25AM
18 No, so you can say absolutely, can you, that it was made on 10:42:26AM
19 1 October?---I can say it was made on 1 October. 10:42:31AM
20 Yes. Yes, Mr Tovey. 10:42:36AM
21 MR TOVEY: Are you saying on oath that you did not - I just 10:42:44AM
22 want to be clear - that you did not backdate any document 10:42:48AM
23 relating to the loan or the repayment of the loan?---No, 10:42:52AM
24 I didn't. 10:42:56AM
25 Could the witness be shown 6167, please, which is 10:43:00AM
26 exhibit - sorry, 6155, I apologise, and 6156, which is 10:43:25AM
27 exhibit 269. There are various copies of the same 10:43:30AM
28 document, Mr Commissioner. You'll see that that's a 10:43:33AM
29 document - first of all, 6155 is dated 21 July of 2017, 10:43:54AM

1 all right, and you'll see that it is an email from you to 10:44:10AM
2 Mr Aziz providing a signed copy of a memorandum, 'Thank 10:44:15AM
3 you for the return of the moneys. I hope it assisted you 10:44:32AM
4 in your needs. This letter confirms the return of 10:44:35AM
5 \$230,000', et cetera - sorry, '\$230,000 in cash', 10:44:40AM
6 et cetera. Now, that document was dated 10 May 2017. 10:44:48AM
7 It's sent on 21 July 2017 to Mr Aziz. Do you say that 10:44:56AM
8 that was in fact a document made on the day that it's 10:45:04AM
9 dated, that is 10 May 2017?---To the best of my knowledge, 10:45:09AM
10 yes. 10:45:14AM
11 Look, I'm not asking you about the best of your knowledge. Did 10:45:14AM
12 you backdate documents or didn't you?---No. No, I don't. 10:45:19AM
13 All right, so you say no - - -?---To the best of my 10:45:23AM
14 knowledge - to the best of my knowledge that's when it was 10:45:26AM
15 dated. 10:45:28AM
16 That document was created by you on 4 July. That's what the 10:45:29AM
17 metadata on the documents that were obtained from you and 10:45:35AM
18 Mr Aziz show?---Sorry, what's the metadata? 10:45:39AM
19 When you create a document electronically it creates a record 10:45:43AM
20 of when a file was created?---Right. 10:45:47AM
21 The document - the file which represents that document and 10:45:50AM
22 other versions of it was created on 4 July; all right? 10:45:55AM
23 Months after - months after. Now, I'd suggest to you 10:46:01AM
24 that, insofar as you have positively asserted that you 10:46:06AM
25 never backdated documents, that's simply 10:46:12AM
26 untrue?---I don't. 10:46:15AM
27 So, despite the forensic analysis of that document, you'd still 10:46:19AM
28 maintain that that's impossible?---I don't backdate 10:46:27AM
29 documents, Mr Tovey. 10:46:30AM

1 I'm not asking you that. I said, having been told what the 10:46:32AM
2 forensic analysis of that document shows, you'd say that's 10:46:36AM
3 impossible, it had to be created on 10 May of 10:46:40AM
4 2017?---That's when I recall it was created. 10:46:45AM
5 And if it was created on 10 May of 2017 why was it that you 10:46:47AM
6 weren't sending it to Mr Aziz until 21 July?---I'm not 10:46:53AM
7 sure. Not sure. 10:46:58AM
8 The answer I'd suggest to you is because he asked you for it 10:47:01AM
9 because he wanted it to use in his Family Court 10:47:05AM
10 proceedings?---If that was the case, that may be the case, 10:47:07AM
11 Mr Tovey. But I'm not here to lie to you. I don't 10:47:10AM
12 recall. It could be that. I don't know. But would you 10:47:14AM
13 like me to say that, because that's not what I recall? 10:47:17AM
14 I would be much obliged if you just tell us the truth?---I am, 10:47:21AM
15 Mr Tovey. 10:47:26AM
16 Could I take you back then to - - - 10:47:28AM
17 COMMISSIONER: I'm sorry, Mr Tovey, I would like a response 10:47:33AM
18 from Mr Nehme to the suggestion that this communication in 10:47:36AM
19 July which contains the letter of 10 May 17 was in 10:47:41AM
20 response to a request from Mr Aziz that he needed 10:47:49AM
21 something for his matrimonial proceedings. Can you tell 10:47:53AM
22 us, Mr Nehme, is that correct, that you provided this 10:47:58AM
23 material in response to a request from 10:48:02AM
24 Mr Aziz?---Commissioner, I can't recall, and that doesn't 10:48:07AM
25 mean there was or wasn't. I just - I can't recall. There 10:48:11AM
26 would have been a reason why, but I can't give you an 10:48:16AM
27 exact answer. 10:48:19AM
28 What about the affidavit that you ultimately swore? Did you 10:48:19AM
29 not have to turn your mind to this very question at the 10:48:23AM

1 time you swore the affidavit which Mr Aziz then utilised 10:48:27AM
2 for his matrimonial proceedings?---Yes, yes. 10:48:31AM
3 So it's not very long ago. What did your recollection then 10:48:34AM
4 tell you about whether or not in July 2017 you were 10:48:41AM
5 requested by Mr Aziz to provide you - provide him with 10:48:46AM
6 some documentation to show that you had been paid back a 10:48:50AM
7 loan of \$230,000? Do you remember that?---I don't recall 10:48:57AM
8 it, Commissioner. But, again, it doesn't come to front of 10:49:05AM
9 my head. So I don't want to - it may have occurred. But, 10:49:14AM
10 once again, I'm not going to sit here and give an absolute 10:49:17AM
11 if I can't give you an absolute. There would have been a 10:49:20AM
12 reason why I sent it. Was it because he, Mr Aziz, 10:49:23AM
13 requested it? I can't be exact. 10:49:27AM
14 Mr Nehme, you know exactly why you were brought here to give 10:49:32AM
15 evidence at this examination was because there is a 10:49:37AM
16 serious doubt about whether your claim that you ever lent 10:49:41AM
17 Mr Aziz \$230,000 which he repaid you in cash was true. So 10:49:47AM
18 surely one of the things that you turned your mind to 10:49:56AM
19 before giving evidence on oath was whether or not the 10:50:00AM
20 affidavit that you swore for the purpose of Mr Aziz's 10:50:08AM
21 Family Court proceedings in which his wife was going to be 10:50:13AM
22 told that you were repaid \$230,000 out of the \$600,000 10:50:17AM
23 cash which Mr Aziz withdrew from his account is correct; 10:50:25AM
24 surely you turned your mind to that before coming here to 10:50:32AM
25 give evidence?---The affidavit you refer to, Commissioner, 10:50:35AM
26 it was spoken about yesterday. I haven't seen the final 10:50:43AM
27 affidavit that was stamped. Does anyone have a copy of 10:50:48AM
28 that, of what I signed? 10:50:52AM
29 Mr Nehme, I'm asking you to tell me whether or not - and I'm 10:50:55AM

1 asking this because of your claimed relative state of 10:51:00AM
2 ignorance or difficulty in recalling - I'm asking you 10:51:04AM
3 whether you turned your mind to this question before you 10:51:09AM
4 came here to give evidence?---Yes, I did. 10:51:12AM
5 So what's the answer then to the question? Did you in July 10:51:17AM
6 2017, at Mr Aziz's request, produce a document for him 10:51:28AM
7 that he could then use in his Family Court proceedings to 10:51:34AM
8 say he repaid you \$230,000 in cash? Did you do that in 10:51:39AM
9 July as - - -?---No. 10:51:46AM
10 As a response to Mr Aziz's request?---I produced a document of 10:51:48AM
11 when I received the money back, Commissioner, as 10:51:51AM
12 confirmation. I don't recall a request - there could be a 10:51:54AM
13 request in there. I don't know. There may have been a 10:51:58AM
14 request. But I can't sit here and tell you categorically 10:52:01AM
15 that there was. Now, if he did request, that's why 10:52:05AM
16 I would have sent it to him in July. But the document was 10:52:09AM
17 produced in May. 10:52:12AM
18 Yes. Yes, Mr Tovey. 10:52:16AM
19 MR TOVEY: Thank you. Could the witness now be taken, 10:52:22AM
20 Mr Commissioner, to a series of documents being, first of 10:52:32AM
21 all, pages 1 to 12 of a group of bank statements for the 10:52:39AM
22 Nehme Group of Companies for the period July through to 10:52:46AM
23 September of 2016. 10:52:57AM
24 COMMISSIONER: You wish the witness to be shown these 10:53:08AM
25 statements, Mr Tovey? 10:53:11AM
26 MR TOVEY: Yes, I want them. 10:53:13AM
27 COMMISSIONER: Yes. 10:53:16AM
28 MR TOVEY: Thank you. Now, these do not have a court book 10:53:17AM
29 number, as I understand it. 10:53:20AM

1 MS BORG: Could I enquire as to whether they have been 10:53:24AM
2 tendered - I'm just not sure if we've received a copy - 10:53:27AM
3 just in case Mr Nehme needs time to look at it? 10:53:30AM
4 MR TOVEY: I'll take Mr Nehme to these and if he needs some 10:53:35AM
5 time later on it will be up to the Commissioner to give it 10:53:38AM
6 to him. This isn't a court hearing. 10:53:41AM
7 MS BORG: No, I just wasn't sure if the documents that have 10:53:45AM
8 been released to us, this was included in it. I just 10:53:49AM
9 wanted to know, that's all. 10:53:52AM
10 MR TOVEY: It wasn't. 10:53:54AM
11 MS BORG: Thank you. 10:53:56AM
12 WITNESS: Mr Tovey, can I also ask a question of is this out in 10:53:57AM
13 the public, this statement as we look at it now? Because, 10:54:02AM
14 congratulations, you've just got my account details. 10:54:10AM
15 COMMISSIONER: I understand there's a 10-minute delay in 10:54:18AM
16 relation to - - -?---Where's the privacy to my account? 10:54:21AM
17 There's my account - - - 10:54:25AM
18 Mr Nehme, don't worry about what's amusing you. If you tell me 10:54:27AM
19 that there's something that you want kept confidential 10:54:31AM
20 I'll hear you, and there's an opportunity for it to be 10:54:34AM
21 made before the publication of that can be suppressed. Is 10:54:36AM
22 that what you're asking?---Yes, I am, because my account 10:54:41AM
23 details are now being published in public. 10:54:44AM
24 And what's the problem with that? 10:54:47AM
25 MS BORG: Well, with respect - - - 10:54:49AM
26 COMMISSIONER: No, Ms Borg, I'm talking to your client at the 10:54:51AM
27 moment, please. What is the problem with that?---The 10:54:53AM
28 public now have access to my account. 10:54:58AM
29 Who has access to it?---Whoever's watching this. 10:55:02AM

1 What is your concern about the fact that your account is 10:55:08AM
2 published?---Mr Commissioner, please, seriously? 10:55:11AM
3 MR TOVEY: Mr Commissioner, could I just intercede perhaps. 10:55:16AM
4 This isn't being transmitted. The document isn't be 10:55:19AM
5 publicly transmitted?---Thank you. I think you can all 10:55:23AM
6 understand my concerns, as anyone's concerns, of having a 10:55:29AM
7 document like this being publicised. 10:55:32AM
8 COMMISSIONER: Mr Nehme, if it's not already apparent to you, 10:55:36AM
9 I'm struggling with most of your concerns, and, Ms Borg, 10:55:38AM
10 I'm not assisted by your head shaking either. 10:55:45AM
11 MS BORG: I'm just concerned because of identity fraud that is 10:55:48AM
12 rife in our community at the moment. I can understand 10:55:53AM
13 Mr Nehme's concern that the account numbers, the PO boxes, 10:55:56AM
14 where the account is held is all - and the name of the 10:56:01AM
15 company is all up there. So I can understand why he's 10:56:04AM
16 concerned. 10:56:07AM
17 COMMISSIONER: Yes. Yes, thank you. So what is actually live 10:56:08AM
18 streamed, Mr Tovey? 10:56:19AM
19 MR TOVEY: Only the examination itself. Only what we see on 10:56:22AM
20 the screen in front of us at the moment. The document 10:56:27AM
21 screen is not live streamed. 10:56:32AM
22 COMMISSIONER: And presumably there are particular entries that 10:56:34AM
23 are the matter of examination? 10:56:37AM
24 MR TOVEY: Yes. But I wanted, as a matter of fairness so the 10:56:42AM
25 witness is able to give whatever points he wanted to, not 10:56:48AM
26 just to refer to specific pages - - - 10:56:51AM
27 COMMISSIONER: Yes. 10:56:53AM
28 MR TOVEY: But to allow him to look at the transactions in 10:56:53AM
29 context. So if we go to the first of the payments to the 10:56:56AM

1 Armanious account. You indicated that Mr Aziz, and tell 10:57:09AM
2 me if I'm wrong - sorry, this is at page 10. You 10:57:18AM
3 indicated that Mr Aziz simply indicated to you he wanted 10:57:25AM
4 it to go into the Armanious account but didn't explain why 10:57:31AM
5 and you didn't ask; is that the position?---That's 10:57:36AM
6 correct. I just asked for account details. I didn't ask 10:57:39AM
7 'who', 'why', just 'give me your account details'. 10:57:43AM
8 All right. Now, if you go to page 12 you'll see there that 10:57:47AM
9 there is a deposit which is deposit online 2189768 on 10:57:58AM
10 29 September, transfer Westpac Business Cas. You're 10:58:09AM
11 familiar with these statements and presumably you know 10:58:18AM
12 where money is coming from to your account?---Sorry, can 10:58:22AM
13 you just repeat where - the page I'm looking at now is 10:58:26AM
14 page - - - 10:58:31AM
15 Sorry, it's page 10. There we go. You'll see deposit online, 10:58:32AM
16 transfer Westpac Business Cas, \$21,000. What's 'Westpac 10:58:44AM
17 Business Cas'? That's an account that regularly transfers 10:59:04AM
18 into your account?---Off-hand, I'd - we've got several 10:59:09AM
19 accounts. I don't know which one that is, to be honest. 10:59:15AM
20 Is that transaction a transaction that you would have conducted 10:59:22AM
21 yourself by EFT or somebody else has conducted?---I would 10:59:26AM
22 have conducted by EFT. 10:59:31AM
23 So the Westpac Business Cas, and I'm not sure whether that is 10:59:37AM
24 cash or what it is, that's an account which occurs 10:59:42AM
25 regularly in the course of transactions which are 10:59:49AM
26 reflected in these statements. Are you able to assist us 10:59:53AM
27 in any way as to whether it was a personal account held by 11:00:02AM
28 you or by your family or your wife?---I can obviously see 11:00:07AM
29 below that 'Action Group'; that's obviously the AGA 11:00:14AM

1 account. I just don't know what Westpac calls 'Business 11:00:18AM
2 Cas', C-a-s. 11:00:27AM
3 COMMISSIONER: Who has authority to withdraw funds from the 11:00:28AM
4 Action Group Australia account at that time?---At that 11:00:31AM
5 time, myself. 11:00:35AM
6 Anyone else?---At that time, Commissioner, I recall just 11:00:36AM
7 myself. 11:00:47AM
8 And I think you told us yesterday at some point your office was 11:00:49AM
9 at home. Back in September 2016 was your office from 11:00:55AM
10 home?---Yes. 11:01:01AM
11 So is the likelihood that this transfer of funds and then the 11:01:01AM
12 ultimate withdrawal of them and placement in Mrs Aziz's 11:01:11AM
13 account were done by you electronically from home?---Yes. 11:01:16AM
14 And the letter that you produced that evidences the loan 11:01:24AM
15 agreement but which doesn't include this payment, would 11:01:30AM
16 that have been prepared by you?---Yes. 11:01:35AM
17 And would it have been prepared by you at home?---At my office 11:01:39AM
18 at home. 11:01:43AM
19 Yes. Yes, Mr Tovey. 11:01:44AM
20 MR TOVEY: So then there's a second deposit of precisely the 11:01:53AM
21 same amount from Action Group Australia, which is AGA; is 11:01:58AM
22 that right?---That's correct. 11:02:03AM
23 But do you have any equity in that company?---No, I don't. 11:02:06AM
24 So what was that payment then, the \$21,000?---Whatever payment 11:02:09AM
25 came from there, as I said earlier, is related to my 11:02:22AM
26 contract, which is consulting and director's fees. So 11:02:25AM
27 everything - all those payments came out of Action Group 11:02:32AM
28 Australia, and then to my company Nehme Group. 11:02:34AM
29 You have given us a number of explanations, which have already 11:02:38AM

1 been taken up with you and I won't go there again, as to 11:02:41AM
2 whether these payments are director's fees or consulting 11:02:45AM
3 fees or something else. But in respect of that \$21,000 11:02:48AM
4 you say that they are either director's fees or consulting 11:02:54AM
5 fees?---As per my contract, as I've - to the best of my 11:03:00AM
6 knowledge. 11:03:04AM
7 You've already indicated in evidence yesterday that you 11:03:05AM
8 received consulting - director's fees of \$120,000 per 11:03:10AM
9 quarter in two payments of \$60,000. Now, is that 11:03:18AM
10 incorrect?---No, to the best of my knowledge that's 11:03:25AM
11 correct. \$60,000 - - - 11:03:30AM
12 This isn't \$60,000. So that only leaves the possibility that 11:03:35AM
13 it's a consulting fee; is that right?---As I say, I don't 11:03:39AM
14 know what it is, but it could be - there was a lot of 11:03:44AM
15 money owed at that time, Mr Tovey, to me. So I was able 11:03:48AM
16 to take it as I required it. 11:03:52AM
17 But this was owed as consulting fees, you say?---It's either 11:03:59AM
18 consulting fees or director's fees. It could be incentive 11:04:03AM
19 fees. It could be - as a consultant there's a number of 11:04:09AM
20 things I do. So I can't pinpoint to you and give you an 11:04:13AM
21 absolute of what that payment related to. 11:04:16AM
22 COMMISSIONER: Why did you say yesterday, Mr Nehme, that it 11:04:21AM
23 might have been simply money that you asked Mr Mubarak to 11:04:23AM
24 give you?---I didn't say that this was this money. But 11:04:28AM
25 there were occasions you questioned me, whether you or 11:04:33AM
26 Mr Tovey said, 'Do you ever ask Sheikh Mubarak for money 11:04:37AM
27 outside of' - yes, I do. But I'm not saying this relates 11:04:41AM
28 to it. I don't know what this actually relates to. 11:04:46AM
29 I need to go back and confirm. But it's money that I've 11:04:51AM

1 been owed. That's why it's come out of Action Group 11:04:55AM
2 Australia. 11:04:58AM
3 I want to suggest to you that yesterday, when you were asked 11:04:58AM
4 what might be the explanation for these transfers, part of 11:05:02AM
5 your explanation was that it might have simply been that 11:05:06AM
6 you asked Sheikh Mubarak for money?---I would speak to 11:05:10AM
7 Sheikh Mubarak because I need money. So there was on many 11:05:15AM
8 occasions where, again call it cultural, call it whatever, 11:05:21AM
9 things never get paid on time and things build up. 11:05:26AM
10 Yes?---So this would have been part of money that I was owed in 11:05:30AM
11 the past that I called for. 11:05:33AM
12 Can you recall now, Mr Nehme, how much money you were owed at 11:05:37AM
13 this time, approximately?---No, I can't. No. 11:05:42AM
14 You said you were owed a lot of money?---Yes. 11:05:46AM
15 So you must have some sense of the amount?---Commissioner, I'm 11:05:50AM
16 guessing, I can't be accurate, but my memory is about over 11:05:58AM
17 \$700,000. 11:06:02AM
18 Yes?---But I won't state that exact - that exact number, 11:06:03AM
19 Commissioner. You're asking me approximately. 11:06:09AM
20 No, I'm just asking for a general idea?---Sure. 11:06:10AM
21 So you're owed a sum of money vastly in excess of the amount 11:06:13AM
22 that Mr Aziz, you say, wanted to borrow from 11:06:18AM
23 you?---Correct. 11:06:21AM
24 MR TOVEY: So on 29 September 21,000 goes in. Having received 11:06:35AM
25 the first \$21,000, your account, which has a low balance, 11:06:45AM
26 then gets a second 21,000 from Action Group Australia, 11:06:50AM
27 AGA. You agree that that was the case?---Sorry, can you 11:07:01AM
28 repeat that, Mr Tovey? 11:07:04AM
29 Yes. So your account has two injections of precisely 11:07:05AM

1 \$21,000?---Right. 11:07:10AM

2 First of all you have the transfer from Westpac Business Cas 11:07:12AM

3 and then, secondly, you have a transfer from the - sorry, 11:07:22AM

4 then you have a transfer from 'Action Group Aus'; that's 11:07:28AM

5 Action Group Australia, AGA. Now, both of those 11:07:34AM

6 transactions, from what you've told me, are transactions 11:07:38AM

7 whereby you conducted the transaction by way of EFT; is 11:07:44AM

8 that right?---Yes. 11:07:48AM

9 So what were they for? You've got two transactions from two 11:07:53AM

10 different accounts. Why was it done that way?---I have no 11:07:58AM

11 idea. I know the AGA one was money that I requested. 11:08:01AM

12 I don't know why there was a transfer from Westpac 11:08:10AM

13 Business Cas for 21,000 on the 29th. I don't know. 11:08:15AM

14 Then on the same day 21,000 goes into Nesrine Armanious's 11:08:19AM

15 account, and that's listed as a payment; all 11:08:28AM

16 right?---Sorry, what was that last bit? 11:08:37AM

17 29 September, if you look at the - - -?---Yes. 11:08:39AM

18 'Withdrawal online 1220221?---Yes. 11:08:43AM

19 Payment, 'PYMNT Nesrine Armanious'?---Correct. 11:08:48AM

20 That simply, I'd suggest to you, is repeating information or 11:08:52AM

21 part of the information that you have provided in the 11:08:55AM

22 course - as a description of the EFT?---Yes. 11:09:01AM

23 Yes. All right. So you describe it not as a loan but as a 11:09:06AM

24 payment; is there any reason - - -?---No, I describe it as 11:09:15AM

25 a loan, and that's the one that I've said from day one 11:09:17AM

26 that for some reason, and I don't know why, it was 11:09:22AM

27 overseen and it is a loan. 11:09:27AM

28 COMMISSIONER: What do you mean you've said from day one, 11:09:31AM

29 Mr Nehme?---Sorry, as of yesterday - - - 11:09:34AM

1 You said it yesterday?---I said it yesterday, Commissioner. 11:09:37AM
2 Yes?---I was made aware of this by IBAC on Friday. Now, I know 11:09:39AM
3 it was brought up and I kept saying, I said to IBAC on 11:09:45AM
4 Friday that I don't know of this payment. Until they told 11:09:48AM
5 me where the payment was, then I was made aware of it. 11:09:54AM
6 MR TOVEY: You see - - - 11:09:59AM
7 COMMISSIONER: Mr Nehme, that's not making any sense. Almost 11:10:01AM
8 the last transaction you conduct on this account on 11:10:06AM
9 29 September is the transfer of funds from your company, 11:10:11AM
10 having transferred them from Action Group to your company, 11:10:21AM
11 transferred from your company to the Armanious account. 11:10:26AM
12 Two days later, there being no further transactions 11:10:32AM
13 conducted on the account before you say you wrote a letter 11:10:36AM
14 evidencing the loan agreement, you make no reference to 11:10:42AM
15 this payment?---An oversight, Commissioner. 11:10:51AM
16 It's as though it never existed?---An oversight, Commissioner. 11:10:54AM
17 An oversight?---Yes, on my part. 11:11:00AM
18 Or is the explanation, Mr Nehme, that, firstly, the letter 11:11:05AM
19 supposedly evidencing the loan agreement was not created 11:11:11AM
20 until a later point of time?---That's incorrect. 11:11:15AM
21 In which case, what, you're saying that you simply forgot on 11:11:17AM
22 the day in your office at home that you decided to record 11:11:24AM
23 the financial arrangement with Mr Aziz, you forgot that 11:11:29AM
24 two days earlier you had put \$21,000 into his wife's 11:11:33AM
25 account; is that your explanation, that you forgot 11:11:37AM
26 that?---Commissioner, I don't recall and as I said I was 11:11:42AM
27 reminded on Friday by - - - 11:11:45AM
28 No, I'm not asking about Friday. I'm asking - - -?---I'm 11:11:47AM
29 telling you, Commissioner, that's how I found out - - - 11:11:50AM

1 Mr Nehme - - -?---It was an error. 11:11:54AM

2 Mr Nehme, I'm talking about your state of mind back in 11:11:57AM

3 September and October, the beginning of October 2016. 11:12:01AM

4 It's not as though someone else made these payments. It's 11:12:11AM

5 not as though someone else wrote this agreement. It's 11:12:13AM

6 you. So the explanation can only be one of two 11:12:16AM

7 things: either for some strange reason you forgot that two 11:12:22AM

8 days earlier you had made a \$21,000 payment or, 11:12:26AM

9 alternatively, there is some other explanation for why you 11:12:30AM

10 omitted making reference to it in the document you created 11:12:35AM

11 on, you say, 1 October 2017?---Commissioner - - - 11:12:39AM

12 So what is the explanation for your state of mind back 11:12:46AM

13 then?---Obviously my state of mind wasn't good because 11:12:51AM

14 I did forget. 11:12:53AM

15 Yes. Yes, Mr Tovey. 11:12:59AM

16 MR TOVEY: The payment to Nesrine Armanious is referred to as 11:13:14AM

17 payment, 'PYMT', in your notation. If it was a loan, why 11:13:22AM

18 did you not refer to it as a loan?---That's not my 11:13:27AM

19 notation. That's how Westpac I assume does their 11:13:35AM

20 notation. 11:13:43AM

21 I thought you told me a minute ago that that was your notation 11:13:44AM

22 at the time that you - - -?---I don't write this 11:13:47AM

23 statement. This is from Westpac. So how they appear on 11:13:55AM

24 there I don't control. 11:14:00AM

25 You do when you - you must be aware of the fact that when you 11:14:02AM

26 do an electronic funds transfer there is a little box that 11:14:09AM

27 you fill out which describes, if you want to, what the 11:14:14AM

28 transfer is about. And what you put in the box, 11:14:17AM

29 I suggest, is 'payment Nesrine Armanious', and there's 11:14:22AM

1 probably more which hasn't been reflected on the statement 11:14:28AM
2 itself. What I'm asking you is why you've typed in 11:14:30AM
3 'payment Nesrine Armanious'. The bank doesn't know who 11:14:35AM
4 Nesrine Armanious is. You do. You put that in there. 11:14:41AM
5 Why have you described it as a payment when in fact it was 11:14:45AM
6 a loan?---Can we go up the statement and just see how 11:14:49AM
7 other transactions have occurred to answer your question, 11:14:52AM
8 because I don't - - - 11:14:55AM
9 I'll take you to other transactions shortly. You say it was a 11:14:56AM
10 loan but you didn't describe it as such?---Well, I don't 11:15:03AM
11 recall what I put in there as far as whether - I wouldn't 11:15:08AM
12 have put in 'payment', I don't think. I don't know 11:15:13AM
13 what - and I understand what you're saying as far as the 11:15:18AM
14 box and stuff. I don't know what I put in there. I can't 11:15:23AM
15 recall - - - 11:15:26AM
16 (Indistinct) have made that notation. The bank doesn't have 11:15:26AM
17 the knowledge to make the notation. The notation is there 11:15:30AM
18 to help people identify transactions. You're the person 11:15:35AM
19 on the end of the transaction. You're the person who's 11:15:39AM
20 making the transfer. That is your note. I'm asking you 11:15:43AM
21 why it's described as a payment and not a loan?---I don't 11:15:46AM
22 recall putting 'payment' on there, Mr Tovey. I don't 11:15:49AM
23 recall putting anything on there, if I did. I don't know. 11:15:53AM
24 I tender that group of statements pages 1 to 12, 11:16:02AM
25 Mr Commissioner. 11:16:07AM
26 COMMISSIONER: Yes. Mr Tovey, are you taking the witness to 11:16:10AM
27 the later payments? 11:16:13AM
28 MR TOVEY: I am, and I'll tie up some of the points that the 11:16:15AM
29 witness is now raising when we get to those. 11:16:19AM

1 COMMISSIONER: Very good. That will be exhibit 352, bank 11:16:22AM
2 statement of Mr Nehme's company group for the period July 11:16:26AM
3 to December 2016. 11:16:36AM
4 WITNESS: Is there any way, Mr Tovey or Commissioner, of 11:16:49AM
5 redacting or blocking out my account details? 11:16:51AM
6 COMMISSIONER: I've been told, Mr Nehme, that it's not 11:16:55AM
7 live-streamed?---No, no, but if it goes on public record 11:16:58AM
8 as a document that's been tendered, can my account details 11:17:03AM
9 please be blocked out? 11:17:08AM
10 Yes?---And my address? 11:17:11AM
11 Yes. I'll direct that your account details and address not be 11:17:14AM
12 disclosed?---Thank you, Commissioner. 11:17:21AM
13 That was exhibit 352. 11:17:35AM
14 #EXHIBIT 352 - Bank statement of Mr Nehme's company group for 11:17:46AM
15 the period July to December 2016. 11:17:46AM
16 COMMISSIONER: Mr Tovey? 11:18:22AM
17 MR TOVEY: I'm sorry, Mr Commissioner, I thought you wanted to 11:18:23AM
18 break at this point. 11:18:25AM
19 COMMISSIONER: I suppose it's convenient now to give Mr Nehme a 11:18:30AM
20 break. We'll resume at 11.30. 11:18:34AM
21 MR TOVEY: Thank you. 11:18:37AM
22 (Short adjournment.) 11:18:45AM
23 COMMISSIONER: Yes, Mr Tovey. 11:35:27AM
24 MR TOVEY: Did you, Mr Nehme, ever lend AGA money?---I'm not 11:35:37AM
25 sure. I don't - possibly. 11:35:49AM
26 In what circumstances might that have occurred?---I can't 11:35:55AM
27 recall, Mr Tovey. 11:35:59AM
28 COMMISSIONER: Mr Nehme, did you say earlier in response to a 11:36:04AM
29 question Counsel Assisting asked that you didn't have a 11:36:07AM

1 beneficial interest in Action Group Australia?---That's 11:36:10AM
2 correct. 11:36:13AM
3 Has the shareholding in that company changed over the last two 11:36:13AM
4 or three years?---Not as far as I'm aware, no. 11:36:20AM
5 So the corporate affairs documents that are in IBAC's 11:36:24AM
6 possession show you and Sheikh Mubarak as each holding 50 11:36:32AM
7 shares; is that not correct?---That's not correct. I'm a 11:36:39AM
8 resident director here, and there is a letter that I'm 11:36:43AM
9 aware of that was produced to say that he is the full 11:36:46AM
10 beneficiary. So I do not - I'm not an owner or 11:36:51AM
11 beneficiary of Action Group Australia. 11:36:56AM
12 But might you actually be recorded as holding 50 of the 100 11:36:59AM
13 shares?---I haven't seen that document, Commissioner. 11:37:04AM
14 All right. Yes, Mr Tovey?---Could I - Commissioner, sorry, 11:37:08AM
15 just going back to the bank statements - - - 11:37:16AM
16 Yes?---Is it possible to redact all the irrelevant information 11:37:18AM
17 of other transfers on there for other people's privacy, 11:37:23AM
18 and just retain the funds that you're in query of? 11:37:28AM
19 MR TOVEY: Can I indicate, Mr Commissioner, that, having spoken 11:37:36AM
20 to those who are in control of these documents, routinely 11:37:38AM
21 they'll be treated in a way which hides any material other 11:37:43AM
22 than that which is necessary. So, insofar as we end up 11:37:49AM
23 only referring to the odd page of the statement, the 11:37:53AM
24 remainder of those statements would be redacted unless 11:37:57AM
25 there's some reason not to?---And what about further 11:38:00AM
26 information on the actual statements that you retain? 11:38:03AM
27 Well, the only matters that will be part of the exhibit will be 11:38:07AM
28 the pages we refer to. 11:38:11AM
29 COMMISSIONER: I think the witness is concerned about 11:38:14AM

1 information on the pages that's not the subject of 11:38:18AM
2 evidence. There's no reason why anything other than those 11:38:20AM
3 entries about which specific questions are asked needs to 11:38:25AM
4 be maintained, otherwise it can all be redacted, can't it, 11:38:29AM
5 Mr Tovey? 11:38:35AM
6 MR TOVEY: I think that's the case, sir, yes. 11:38:36AM
7 COMMISSIONER: Very good?---Thank you, Commissioner. 11:38:40AM
8 MR TOVEY: In the case of AGA, your company, the Nehme Group of 11:38:48AM
9 Companies, was the owner of 50 shares up until some more 11:38:55AM
10 recent time when Action Group Holdings Co became the owner 11:39:02AM
11 of all the shares; is that your understanding?---I don't 11:39:10AM
12 recall - - - 11:39:17AM
13 You don't recall ever being a shareholder?---Sorry, can 11:39:17AM
14 I finish? 11:39:21AM
15 Yes?---I don't know which of my companies would have been, but 11:39:21AM
16 it was more had been done on a resident - as a resident 11:39:27AM
17 director here. Action Group Australia doesn't operate - 11:39:31AM
18 it doesn't - all it does is receives money. It runs the 11:39:35AM
19 office here, and that's it. Now, it doesn't do work. It 11:39:39AM
20 doesn't generate income. 11:39:46AM
21 As of 2016 is it your clear evidence that you and - neither you 11:39:48AM
22 nor NGOC had any interest in AGA?---Nehme Group of 11:40:00AM
23 Companies does not have a financial interest in it. 11:40:09AM
24 You're saying that it appears on the ASIC registry. It 11:40:12AM
25 was always set up - - - 11:40:16AM
26 I'm not wanting to mislead you. There is no indication on the 11:40:18AM
27 ASIC registry as to when - at what stage the Nehme Group 11:40:22AM
28 no longer held shares. I'm simply asking you what your 11:40:25AM
29 position is?---My position is that Nehme Group does not 11:40:30AM

1 have an interest in AGA - - - 11:40:35AM

2 And do you recall it ever having an interest or ever having had 11:40:41AM

3 an interest?---I don't recall it having an interest, and 11:40:43AM

4 if it did, Mr Tovey, it shouldn't have. 11:40:48AM

5 Moving on, I now want to go to the next set of bank statements, 11:40:53AM

6 which are the bank statements for August to December of 11:40:59AM

7 2016, pages 1 to 14, and if we could go, please, to first 11:41:05AM

8 of all page 3 of that statement. So if we go to 11:41:26AM

9 26 October you'll see that on 26 October there is a credit 11:42:00AM

10 of \$147,000 coming in from ANZ Business One. So that 11:42:07AM

11 takes the account from a very low amount up to in excess 11:42:20AM

12 of \$147,000; you see that? 11:42:24AM

13 MS BORG: It's Westpac, sorry, not ANZ?---Yes, I was going to 11:42:30AM

14 say this. 11:42:34AM

15 MR TOVEY: Sorry, did I say Westpac?---No, you said ANZ. 11:42:36AM

16 Yes, sorry. Well, it's a Westpac Business One; do you see 11:42:40AM

17 that?---Yes. 11:42:43AM

18 What's Westpac Business One?---I don't know which account it 11:42:44AM

19 is, to be honest. 11:42:51AM

20 Is it an account - a family account or a business 11:42:52AM

21 account?---I'm not sure. I'm not sure of that account. 11:43:01AM

22 Why were you transferring that amount?---I don't know. I don't 11:43:06AM

23 know which account it is, Mr Tovey. 11:43:15AM

24 You see that that goes in, then it goes out and it goes - you 11:43:20AM

25 see 26 October, 'Withdrawal online 1657798, payment Action 11:43:29AM

26 Group loan to AGA.' What was that? So it looks like 11:43:41AM

27 money has come in from Westpac Business One and then 11:43:51AM

28 you've loaned it out to AGA; is that right?---That's how 11:43:54AM

29 it reads on there, yes. 11:44:05AM

1 Why have you done that?---I've no idea. 11:44:07AM

2 Did AGA need \$140,000 at the time?---I don't recall, Mr Tovey. 11:44:11AM

3 I'm just going - looking through this now, trying to work 11:44:16AM

4 out why. 11:44:20AM

5 Then on 27 October that comes back as 'Direct credit returned, 11:44:31AM

6 loan from NGC answer 5'. So it would seem that on 11:44:45AM

7 26 October you've created a loan to AGA, then that loan is 11:45:06AM

8 refunded from NGC on the 27th. Is that a fair description 11:45:14AM

9 of those transactions?---It doesn't make sense to me at 11:45:25AM

10 the moment, Mr Tovey. 11:45:28AM

11 Well, you're the one who's conducted the transactions. 11:45:31AM

12 \$140,000 is not to be sneezed at. Are you saying 11:45:35AM

13 that - is there any reason why you would have been mucking 11:45:41AM

14 around with bouncing \$147,000 backwards and forwards 11:45:43AM

15 between yourself and AGA?---I don't recall. That's why 11:45:48AM

16 I'm just baffled looking at it now. 11:45:58AM

17 COMMISSIONER: But it's evident, Mr Nehme, that you record on 11:46:02AM

18 the movement of funds - and these are all movements or 11:46:09AM

19 transactions you've entered into. You record - when 11:46:17AM

20 there's a loan you record that, so it's been recorded on 11:46:23AM

21 the bank statement; do you see that?---Yes, it says 11:46:25AM

22 'loan'. 11:46:29AM

23 Yes. Or a number of loans. Yes. 11:46:29AM

24 MR TOVEY: Okay. Then - so the money's come in, gone out, come 11:46:38AM

25 back in again on 27 October, and then you see it going 11:46:45AM

26 into the Armanious account; is that right?---I am looking 11:46:56AM

27 at the deposit from Action Group Australia. So just with 11:47:04AM

28 Westpac - I'm trying to work out the - sorry, Mr Tovey, 11:47:11AM

29 can you just repeat your question? 11:47:24AM

1 Having come in on the - having come back from AGA on the - so 11:47:28AM
2 the loan is repaid from AGA on 27 October, and then once 11:47:39AM
3 that loan is repaid you have a credit in your account of 11:47:48AM
4 in excess of 140,000, and you then transfer \$140,000 to 11:47:54AM
5 Nesrine Armanious; is that right?---The way I - I'm going 11:48:01AM
6 on memory here, and I can't be clear on this, so I would 11:48:09AM
7 like to be - it looks like Nehme Group has paid Armanious, 11:48:14AM
8 then Action Group's reimbursed, and I can't confirm that, 11:48:26AM
9 but that's what comes into my head at the moment. 11:48:30AM
10 Yes?---So there are other Nehme Group accounts. There's a 11:48:34AM
11 Max-i Direct account that holds funds as well. 11:48:38AM
12 Having described the earlier transactions which were loans, one 11:48:41AM
13 to you, one from you, you didn't describe the Nehme 11:48:48AM
14 payment - the Armanious payment as a loan but as a 11:48:53AM
15 payment. That would indicate, would it not, that at the 11:48:58AM
16 time you weren't treating it as a loan?---I don't know how 11:49:00AM
17 it was filled in - as - I'm not sure whether you - - - 11:49:05AM
18 You filled it in - - -?---Mr Tovey, have been on - done a - I'm 11:49:08AM
19 not sure whether you're a Westpac accountholder. 11:49:11AM
20 I'm asking you to accept that you filled it in. On the 11:49:15AM
21 previous transactions which were loans you referred to 11:49:19AM
22 them as loans. You referred to this transaction as a 11:49:22AM
23 payment. I'd suggest to you that it's patently clear that 11:49:27AM
24 at the time that you made that transaction, which was on 11:49:33AM
25 the same day and the day after you had recorded loan 11:49:39AM
26 transactions, by referring to it as 'payment' it was not a 11:49:44AM
27 loan?---I don't think I referred to it as 'payment'. 11:49:47AM
28 I think you'll find if you go through the statements, 11:49:51AM
29 Mr Tovey, that's what Westpac do. 11:49:54AM

1 COMMISSIONER: Mr - - -?---You can't actually fill in the word 11:49:58AM
2 'payment'. 11:50:01AM
3 No, but you can fill in the word 'loan'?---As a description? 11:50:02AM
4 Which is what you've done in relation to - - -?---As a 11:50:06AM
5 description, Commissioner, that's correct. 11:50:09AM
6 Yes. The reference there on 27 October to the 'Direct credit 11:50:10AM
7 returned, loan from NGC answer 5', who is NGC?---Nehme 11:50:19AM
8 Group of Companies. 11:50:30AM
9 Yes. So can you now recall that there was a loan from that 11:50:30AM
10 company or that group of companies that resulted in a 11:50:41AM
11 credit which enabled you to then make the payment into the 11:50:45AM
12 Armanious account?---As I said earlier, Commissioner, I'm 11:50:51AM
13 not guaranteeing 100 per cent, but the way I read this 11:50:57AM
14 now, because I haven't seen this for a while, is Nehme 11:51:00AM
15 Group - Nehme Group paid Armanious and then Action Group 11:51:07AM
16 repaid the next day, it looks on the 28th, reimbursed 11:51:10AM
17 Nehme Group. 11:51:15AM
18 MR TOVEY: But if you go down it gets curiouser because on the 11:51:18AM
19 31st you will see there is another \$140,000 credit coming 11:51:25AM
20 into the NGOC account from - which is here described as 11:51:36AM
21 'Direct credit returned lodgment loan from NGC', \$140,000, 11:51:51AM
22 and if we go over the page, on 31 August - sorry, 11:51:58AM
23 31 October there's a payment from you to Action Group and 11:52:09AM
24 then on 1 November a payment which is headed 11:52:21AM
25 again - sorry, which is described again as a loan to AGA 11:52:29AM
26 of \$140,000. Now, one thing is for sure. I'd suggest 11:52:33AM
27 that this isn't a simple payment of director's fees or the 11:52:41AM
28 payment of consulting fees. There is something a lot more 11:52:47AM
29 complex going on here, is there not?---I'm trying to work 11:52:55AM

1 it out as well, of why money kept going back and forth. 11:52:58AM

2 I'd suggest to you that in fact the situation was that you 11:53:02AM

3 were - you knew at this stage that you required \$140,000 11:53:14AM

4 to make a payment to Mr Aziz, and this set of transactions 11:53:18AM

5 was set up to accommodate a situation by which the Kuwaiti 11:53:27AM

6 side had provided you with \$140,000 to pay him; is that a 11:53:34AM

7 fair assessment of what occurred?---Nehme Group had to 11:53:39AM

8 lend - a fair assessment in my mind, and I'm confused on 11:53:44AM

9 this statement, but I had to get that 140,000 loan to 11:53:48AM

10 Mr Aziz by that date, but I don't understand, Mr Tovey, 11:53:54AM

11 why funds have gone back and forth. 11:54:00AM

12 Now, if we look at this 140,000 - - - 11:54:05AM

13 COMMISSIONER: Just forgive me, you couldn't have known, 11:54:08AM

14 I suggest, Mr Nehme, back on 1 October that all of these 11:54:11AM

15 transactions would have to take place in order to provide 11:54:16AM

16 Mr Aziz with a payment of \$140,000 on 27 October; you 11:54:23AM

17 couldn't have known that three weeks earlier, could 11:54:32AM

18 you?---I could, because I know I was owed that money and 11:54:35AM

19 it was a phone call - - - 11:54:37AM

20 It doesn't look as though this movement of funds is about money 11:54:39AM

21 owed to you?---What do you mean, Commissioner? 11:54:43AM

22 I don't see how you extract from this series of transactions 11:54:48AM

23 that this discloses money owed to you?---Well, Nehme Group 11:54:51AM

24 had that money at the time, and at the time I must have 11:54:58AM

25 called - and I don't recall, but I would have called 11:55:03AM

26 Sheikh that I need another \$140,000 to my account. 11:55:07AM

27 I don't know. But if you look the Nehme Group had the 11:55:11AM

28 money initially. 11:55:15AM

29 Mr Nehme, you've already told us that you were owed something 11:55:18AM

1 in the order of \$700,000. I don't follow why there was a 11:55:21AM
2 necessity for you to, before the event, list this series 11:55:29AM
3 of payments on these various dates that would be made in 11:55:36AM
4 the future rather than create a document after the 11:55:40AM
5 payments were made. Do you follow what I'm putting to 11:55:46AM
6 you?---Sorry? 11:55:53AM
7 Do you follow what I'm putting to you?---All I can say, 11:55:53AM
8 Commissioner, I didn't create the document after is what 11:55:56AM
9 you're obviously alluding to. 11:55:59AM
10 Yes. Yes, Mr Tovey. 11:56:01AM
11 MR TOVEY: All right. So in any event those are payments made 11:56:09AM
12 on 27 October. Now, you say that there couldn't have been 11:56:13AM
13 any confusion as of 27 October that the transactions 11:56:21AM
14 taking place between you and Mr Aziz was a loan?---Sorry, 11:56:27AM
15 can you say that again? 11:56:38AM
16 Yes. As of 27 October - - -?---Right. 11:56:39AM
17 Is it clear from what you are telling us that neither you nor 11:56:42AM
18 Mr Aziz could have understood these payments to have been 11:56:49AM
19 anything else, this is the Armanious payments - - 11:56:54AM
20 - ?---Yes. 11:56:59AM
21 To be anything other than a loan?---Correct, a loan. 11:57:00AM
22 All right. Now could you look then at 6153. 11:57:02AM
23 COMMISSIONER: Is this an exhibit, Mr Tovey? 11:57:14AM
24 MR TOVEY: It is. Would you bear with me, please, sir. 11:57:17AM
25 COMMISSIONER: Yes. 11:57:20AM
26 MS BORG: Exhibit 267. 11:57:29AM
27 MR TOVEY: Exhibit 267, thank you. 11:57:32AM
28 COMMISSIONER: Thank you. 11:57:34AM
29 MR TOVEY: All right. So here we are two days before the 11:57:45AM

1 payment you've got Mr Aziz emailing you an invoice from 11:57:47AM
2 his wife's dental practice for consulting fees of 11:57:52AM
3 \$140,000. What's that about?---I've no idea. 11:58:00AM
4 Well, I'd suggest to you that - - -?---Mr Tovey, that's - is 11:58:03AM
5 that addressed - I don't see that being - that's not 11:58:08AM
6 addressed to me. 11:58:11AM
7 If you look at 6153, that's an email to you - - -?---Yes, 11:58:13AM
8 I understand that's my email address; correct. 11:58:20AM
9 Yes. And then attached to it is an invoice for consulting fees 11:58:23AM
10 from Dr Armanious into whose account you two days later 11:58:33AM
11 pay 140,000, that exact amount. Now, that's gone to your 11:58:39AM
12 email account?---I haven't seen it in my email account, 11:58:52AM
13 but that is my email account on there. 11:58:55AM
14 You are familiar with this document? No doubt it's been shown 11:58:57AM
15 to you?---It has been, and I've checked on my emails and 11:59:00AM
16 I can't locate it. I checked as recent as this morning. 11:59:04AM
17 Yes?---And it's not on there. 11:59:07AM
18 Well, whether you have it or not, the thing is that it's been 11:59:11AM
19 clearly from this document emailed to you on 25 October of 11:59:19AM
20 2016?---And produced by who? 11:59:26AM
21 Well, I assume it's come from Mr Aziz's computer. So it's from 11:59:30AM
22 his computer?---Right. 11:59:37AM
23 COMMISSIONER: Is there something amusing about this, 11:59:41AM
24 Mr Nehme?---Yes, because it's not addressed to me in the 11:59:43AM
25 sense of the invoice. It is amusing because I don't know 11:59:46AM
26 what it is and for what. So it is amusing, Commissioner, 11:59:51AM
27 yes. 11:59:56AM
28 Do you understand the gravity of this inquiry?---Yes, I do. 11:59:57AM
29 Right. Do you understand that on the face of it there is a 12:00:01PM

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document on Mr Aziz's computer which shows him providing
you with an invoice for the precise amount that you then
pay to him two or three days later; do you follow
that?---Commissioner, can I refer you to the invoice. My
name's not on there. My company's not on there. So is
that addressed to me? It may have been sent to my email.
But that's not me.

MR TOVEY: Whether it is you or not is not to the point. It's
an attachment sent to you and you pay the money two days
later. You pay \$140,000 two days later?---I suggest you
speak to Mr Aziz and ask him what it's for.

You see, don't you understand that this document makes it
impossible that what you're saying is the truth because,
irrespective of whether you got it or not, Mr Aziz would
not need to create this document if there was a loan; do
you understand that? This document, amongst the huge
amount of evidence which suggests this has all been
something which has been fabricated at some point, but
this document alone, don't you understand, is totally
irreconcilable - - -?---I didn't create this document.

With the transactions between you being a loan?---I didn't
create this document, and I suggest you take it up with
Mr Aziz. Because it may have been sent, that is my
account - - -

I'm sorry - - -?---My email account.

I misinformed you. That was from your laptop at your
house?---That was?

It wasn't from Mr Aziz's laptop?---Go back to the top. Go back
to the top.

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1 Yes?---The email. 12:01:50PM

2 Yes, the email was taken from your computer?---But it's from 12:01:51PM

3 Sam Aziz to Andrew Nehme. 12:01:56PM

4 Yes?---I'm not Sam Aziz. 12:01:58PM

5 No, you're Andrew Nehme, who has a computer where it arrived 12:02:01PM

6 and where it was found?---But I didn't create that 12:02:07PM

7 document is what I'm saying. It was sent from Sam Aziz. 12:02:11PM

8 COMMISSIONER: No, no, Mr Nehme, you understand exactly what is 12:02:14PM

9 being put to you, I suggest. Your computer holds the 12:02:17PM

10 record of the receipt of this email from Mr Aziz. You 12:02:23PM

11 just told me a moment ago that you've checked your 12:02:31PM

12 computer and there is no such entry?---As recent as this 12:02:34PM

13 morning - - - 12:02:38PM

14 Yes?---I checked for this, and I can't find it. But again 12:02:39PM

15 I put Sam Aziz in as a name and this didn't come up. Now, 12:02:43PM

16 that is my email address. But as far as the invoice goes 12:02:49PM

17 or whatever it is I didn't send it and I didn't create it. 12:02:56PM

18 Did I receive it? I can't find it on my system. 12:02:59PM

19 No, no, Mr Nehme, there are only two persons, Mr Nehme, 12:03:02PM

20 involved in these transactions: you and Mr Aziz. Is it 12:03:07PM

21 possible that there was such a level of misunderstanding 12:03:17PM

22 between you that you thought you were making a loan of 12:03:21PM

23 \$140,000 to Mr Aziz and Mr Aziz thought that you were 12:03:28PM

24 paying for consulting fees; is that a possibility?---No, 12:03:34PM

25 it was a loan, Commissioner. 12:03:38PM

26 No, quite?---It was a loan. I was always lending Mr Aziz - - - 12:03:40PM

27 No, just bear with me. If it's not a possibility, then Mr Aziz 12:03:45PM

28 for some reason is creating a false document trail; is 12:03:50PM

29 that so?---I'd take that up with him, Commissioner. 12:03:56PM

1 No, no, I'm taking it up with you because you're the 12:04:00PM
2 recipient - - - ?---Yes, but I didn't create the document, 12:04:04PM
3 Commissioner. 12:04:05PM
4 Mr Nehme, you are the recipient of the document and two days 12:04:06PM
5 later you make a payment of this amount. So does that 12:04:12PM
6 mean from your perspective this was a false document trail 12:04:15PM
7 as far as Mr Aziz is concerned, if it is not reflecting 12:04:19PM
8 your arrangement; is that your position?---My arrangement 12:04:24PM
9 is it's a loan, Commissioner. 12:04:26PM
10 Yes. Yes, Mr Tovey. 12:04:28PM
11 MR TOVEY: In fact I have some further information. This 12:04:37PM
12 document, once you received it, you deleted it. So you've 12:04:39PM
13 had two opportunities. This document comes to you. You 12:04:47PM
14 see it as you go through your emails. At another stage at 12:04:51PM
15 some point you make a decision to delete it. And you see 12:04:57PM
16 a document which is an invoice from Mr Aziz for \$140,000. 12:05:01PM
17 What did you do about it?---I don't recall deleting it, 12:05:08PM
18 but if I did I would have deleted it, which I often do, if 12:05:15PM
19 it has nothing to do with me. 12:05:18PM
20 So you didn't ever speak to Mr Aziz about this?---I don't 12:05:19PM
21 recall, no. 12:05:25PM
22 You don't recall?---No, I don't recall. It's 2016. 12:05:25PM
23 COMMISSIONER: Just a moment. You told us yesterday you're not 12:05:37PM
24 in the habit of making \$230,000 unsecured loans to people, 12:05:40PM
25 and this was a special arrangement because of your 12:05:44PM
26 friendship with Mr Aziz. So is it unreasonable to expect 12:05:47PM
27 you to have some memory of your conversations with Mr Aziz 12:05:52PM
28 that not only led to the making of this payment but of 12:05:57PM
29 the context in which you actually make the particular 12:06:02PM

1 payments that you did?---So what are you actually saying, 12:06:05PM
2 Commissioner? 12:06:10PM
3 I'm asking you what is your explanation for Mr Aziz providing a 12:06:11PM
4 document to you in response to which you make a payment of 12:06:21PM
5 \$140,000?---And I repeat again, Commissioner, I don't 12:06:26PM
6 know - I have nothing to do with this invoice. It's not 12:06:34PM
7 addressed to me as an invoice. It's emailed to me. If 12:06:37PM
8 I deleted it, I can only tell you I would have deleted it 12:06:41PM
9 because it didn't belong to me. I did not pay or lend him 12:06:44PM
10 the money off this invoice. 12:06:47PM
11 You are conscious of the fact that as you sit here now that 12:06:56PM
12 from time to time you delete documents from your 12:07:00PM
13 server?---Absolutely. 12:07:02PM
14 Yes?---If they don't relate to me, I think it's common 12:07:03PM
15 practice, isn't it, to delete documents? 12:07:08PM
16 So then why did you provide the answer a few moments ago that 12:07:11PM
17 it's not on your computer for the purpose of conveying the 12:07:16PM
18 impression that you didn't receive such a document? Why 12:07:21PM
19 didn't you say, 'I don't have it on my computer now, but 12:07:25PM
20 quite possibly I deleted it because it didn't relate to 12:07:32PM
21 me'? Why didn't you say that?---Commissioner, I did say 12:07:35PM
22 for the record that when I checked this morning it wasn't 12:07:38PM
23 there. 12:07:41PM
24 But you didn't add anything - you didn't add that, 'I'm in the 12:07:44PM
25 habit' - - - ?---I had just been advised that I had 12:07:48PM
26 deleted it. I don't recall deleting it. But it wasn't 12:07:50PM
27 there. I checked this morning for it. 12:07:53PM
28 Yes. Yes, Mr Tovey. 12:07:56PM
29 MR TOVEY: I now want to move on to the alleged repayment of 12:08:10PM

1 what I'd suggest to you did not occur, that is the alleged 12:08:15PM
2 repayment of \$230,000. Before I do that, though, you 12:08:21PM
3 understand that given the way in which you recorded this 12:08:34PM
4 transaction with the document dated 1 November a striking 12:08:41PM
5 hypothesis and a very compelling one is that at some stage 12:08:48PM
6 much later on you went back to recreate a document and 12:08:55PM
7 simply overlooked \$21,000 which happened to be on a 12:08:58PM
8 separate set of statements; is there anything you want to 12:09:04PM
9 say about that? 12:09:06PM
10 COMMISSIONER: I think, Mr Tovey, I think you should show the 12:09:08PM
11 witness. It's not 1 November, it's 1 October, is it not? 12:09:10PM
12 MR TOVEY: 1 October, yes. 12:09:15PM
13 COMMISSIONER: I think you should show the witness the document 12:09:16PM
14 because I've already indicated I'm gravely concerned about 12:09:19PM
15 the authenticity of that document. 12:09:23PM
16 MR TOVEY: If we go to, please - - - 12:09:26PM
17 MS BORG: Exhibit 268, I think. 12:09:41PM
18 MR TOVEY: 6138. 12:09:43PM
19 MS BORG: Yes, exhibit 268. 12:09:45PM
20 MR TOVEY: Exhibit 268. So you see that document. That's the 12:09:47PM
21 document which you say was made on 1 October; all 12:10:16PM
22 right?---Yes. 12:10:25PM
23 It was made in fact two days after the payment of \$21,000, but 12:10:26PM
24 doesn't record the \$21,000 which you now say was part of 12:10:37PM
25 the loan?---Yes, it is. 12:10:40PM
26 And you had forgotten, had you, in the space of two days that 12:10:42PM
27 the loan was for \$250,000 and not \$230,000 - sorry, 251 12:10:48PM
28 and not 230?---Correct. 12:10:54PM
29 COMMISSIONER: What enables you, Mr Nehme, to say now that the 12:10:58PM

1 loan was for \$251,000?---Because I was made aware last 12:11:02PM
2 Friday by an IBAC member, and I know it was discussed with 12:11:07PM
3 Mr Aziz, about the 21,000, and I was made aware by a 12:11:13PM
4 member of IBAC last Friday of where it was. To that time, 12:11:18PM
5 Commissioner, I was not - I did not remember, totally 12:11:24PM
6 forgot, and embarrassed about that 21,000. 12:11:30PM
7 I'm sorry, you're not suggesting that IBAC officer told you 12:11:33PM
8 that you had loaned Mr Aziz 21,000, are you?---I'm saying 12:11:36PM
9 that an IBAC member told me where to find it on my 12:11:42PM
10 statement. 12:11:45PM
11 Yes?---As of last Friday. 12:11:46PM
12 I want you to put that aside. I'm talking about your state of 12:11:47PM
13 mind at the time that you and Mr Aziz both signed this 12:11:51PM
14 document. Do you see that? You've both signed it?---Yes. 12:11:57PM
15 And you want the Commission to accept that when you did this 12:12:03PM
16 you wrote this letter out at your home; you typed this 12:12:09PM
17 yourself, I take it?---Yes. 12:12:15PM
18 And I pointed out to you there were no other transactions on 12:12:16PM
19 the account after that \$21,000 payment prior to you 12:12:20PM
20 writing this letter. You and Mr Aziz simply omitted to 12:12:26PM
21 include that initial payment; that's what you want the 12:12:31PM
22 Commission to accept, is it?---I forgot. I forgot and, as 12:12:38PM
23 I've said, Commissioner, I'm embarrassed about the 21,000 12:12:41PM
24 loan. That's an error on my part. 12:12:45PM
25 You're embarrassed because this is money - - -?---I'm 12:12:48PM
26 embarrassed because it was brought up by the Commission. 12:12:53PM
27 This is \$21,000 paid to the then mayor who has actively 12:12:55PM
28 promoted the commercial objective that you achieved with 12:13:03PM
29 the Casey Council some 13 days earlier?---Commissioner, 12:13:07PM

1 was it paid to the mayor or to his wife? 12:13:15PM
2 That's a serious point, is it, Mr Nehme?---No, it's just you 12:13:18PM
3 said it's paid to the mayor. So you're insinuating that 12:13:23PM
4 I've paid the mayor. 12:13:27PM
5 Mr Nehme, is that a serious point you are wanting to 12:13:29PM
6 make?---No, I'm just asking for clarification. 12:13:33PM
7 Yes. And you see at the beginning of the letter, Mr Nehme, 12:13:36PM
8 you're now referring as you are typing this to your state 12:13:42PM
9 of mind, 'After meeting with you last week and 12:13:46PM
10 understanding your needs', and yet whilst casting your 12:13:50PM
11 mind to the conversation of the previous few days you have 12:13:55PM
12 forgotten that you've already made a payment of 12:14:00PM
13 \$21,000?---Yes. 12:14:07PM
14 And, in addition to that \$21,000, you say to the Commission 12:14:09PM
15 that we should also accept that you forgave the payment of 12:14:15PM
16 any interest on this loan within the next 12 months, in 12:14:21PM
17 fact within the next eight months; is that the position? 12:14:27PM
18 So it wasn't merely \$21,000 that you haven't accounted 12:14:31PM
19 for; you also did not press Mr Nehme - Mr Aziz for any 12:14:36PM
20 interest in relation to this payment?---Commissioner, 12:14:41PM
21 I forgave the interest. 12:14:44PM
22 Yes?---Due to his circumstance at the time. 12:14:46PM
23 Yes?---All I was concerned about was getting my \$230,000 back 12:14:48PM
24 because I understand the matrimonial situation with him 12:14:56PM
25 wasn't great, and my only interest was getting my \$230,000 12:14:58PM
26 back. 12:15:04PM
27 Yes. Yes, Mr Tovey. 12:15:05PM
28 MR TOVEY: When you told me yesterday that you had no knowledge 12:15:14PM
29 or expectation as to when moneys would be available to you 12:15:16PM

1 in the months to come at the time you negotiated the 12:15:21PM
2 agreement, having told me that, can you explain how it is 12:15:25PM
3 that here you are in advance of the payments giving 12:15:31PM
4 specific dates and specific amounts?---They're just dates 12:15:36PM
5 that I said at the time I knew I had to meet within my own 12:15:40PM
6 needs. 12:15:43PM
7 How did you pick those dates?---Went through what I was owed 12:15:45PM
8 and I knew - I had spoken to Sheikh beforehand of cash 12:15:50PM
9 flow through the group and where it could come from as 12:15:54PM
10 I need it. 12:15:57PM
11 Yes?---So they're the dates that I put forward. And I said to 12:15:58PM
12 Mr Aziz, 'This is the only way in the time I can pay it. 12:16:01PM
13 If I can pay it earlier I will,' and I couldn't. 12:16:06PM
14 COMMISSIONER: I'm sorry, what was the conversation you had 12:16:09PM
15 with the Sheikh?---That I needed money, I needed to be 12:16:11PM
16 paid some of that money that I was owed. 12:16:17PM
17 Yes, and did you discuss with him the specific amounts and the 12:16:20PM
18 dates on which you would withdraw that money from the 12:16:24PM
19 Action Group Australia?---I didn't - I don't recall 12:16:29PM
20 talking about actual amounts and dates, no. 12:16:33PM
21 Yes, Mr Tovey. 12:16:44PM
22 MR TOVEY: If that's the case, this document is self-evidently 12:16:45PM
23 manufactured some time later on, is it not?---No. They 12:16:49PM
24 are the dates that I put, Mr Tovey, that I thought I could 12:16:56PM
25 meet through my cash flow. 12:16:58PM
26 Then you go on, 'As discussed, I require the funds returned no 12:17:05PM
27 later than 14 May 2017.' What was it about 14 May 12:17:11PM
28 2017?---I can't recall why I set that date. I just wanted 12:17:21PM
29 the funds back. I think he wanted nine months and I said 12:17:25PM

1 six months or whatever it was. I didn't want to leave it 12:17:28PM
2 too long. 12:17:30PM
3 But this is 14 October 2016?---Yes. 12:17:30PM
4 Why pick 14 May 2017?---I don't know why I chose that date. 12:17:33PM
5 COMMISSIONER: This is 1 October. 12:17:39PM
6 MR TOVEY: Sorry, did I say the 4th?---You said the 14th. 12:17:44PM
7 Sorry, slip of the tongue. This is 1 October. Why did you go 12:17:49PM
8 to May 2017?---I can't recall why I did it. It may have 12:17:52PM
9 been his request or - I don't know. I can't recall, 12:17:57PM
10 Mr Tovey. 12:18:01PM
11 Can I suggest to you a reason why, and that is because this 12:18:01PM
12 document was made at a much later time?---You can suggest 12:18:05PM
13 all you want, but I disagree with you, Mr Tovey. 12:18:09PM
14 (Indistinct) of May 2017 Mr Aziz took \$600,000 out of his 12:18:12PM
15 account and gave it to John Woodman. It had nothing to do 12:18:18PM
16 with that?---So what are you saying? 12:18:21PM
17 I'm saying to you this. You can't explain why of all the dates 12:18:27PM
18 in the world you picked 14 May of 2017, which doesn't bear 12:18:33PM
19 any regular relationship as a prospective date from 12:18:39PM
20 1 October of 2016; it's not the first of the month, it's 12:18:44PM
21 not six months or nine months. It's a date which very 12:18:49PM
22 closely corresponds to the day in which Mr Aziz has to 12:18:54PM
23 account for what he's done with \$600,000. Now, I'd 12:18:59PM
24 suggest to you that is a pretty amazing coincidence, 12:19:07PM
25 wouldn't you agree with that?---No. I just wanted my 12:19:12PM
26 money back, Mr Tovey. 12:19:21PM
27 If we then go to the repayment, and I think you've already been 12:19:33PM
28 taken to the - sorry, the alleged repayment of cash and 12:19:38PM
29 you've been asked a lot of questions about that. You've 12:19:47PM

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been taken to exhibit 269, which was created some months after the date on the face of the document. The document is dated 10 May. It was created on 4 July. All those things we've been through. But what I want to go through with you is at that time, this is in 2017, leading up to the date on which that document was created there was a draft affidavit being prepared by Mr Aziz, and you've seen that draft affidavit; is that right?---I've seen an affidavit, yes.

Now, could we please bring up exhibit 260, which is page 6145.

Sorry, 6140, we start off. So this is a document which Mr Aziz has emailed to himself. So he's in the course of preparing this, he's told us, on 27 May of 2018. One of the draft affidavits which he is preparing is your affidavit, and that is at pages 6144 through to 6146.

Could we go to 6144, please, and just scroll through to 6146 so the witness has the opportunity of looking at its content. Thank you. Had Mr Aziz obtained from you your instructions as to the drafting of an affidavit or had he simply - did he end up simply presenting you with his own version?---He presented me with his own version which I wasn't prepared to sign and made changes to.

Yes, was this what he presented you with?---I'm not sure whether this is the one that I signed. Do you have the one that I signed?

COMMISSIONER: No, no, Mr Tovey's asking you is this the draft document that Mr Aziz presented to you.

MS BORG: Commissioner - - -

COMMISSIONER: I beg your pardon?

12:19:50PM
12:20:01PM
12:20:05PM
12:20:14PM
12:20:20PM
12:20:32PM
12:20:38PM
12:20:44PM
12:20:48PM
12:20:50PM
12:21:02PM
12:21:26PM
12:21:32PM
12:21:40PM
12:21:44PM
12:21:54PM
12:22:02PM
12:22:06PM
12:23:59PM
12:24:05PM
12:24:09PM
12:24:14PM
12:24:18PM
12:24:24PM
12:24:28PM
12:24:31PM
12:24:33PM
12:24:39PM
12:24:42PM

1 MS BORG: Is it the original draft, because I think there's a 12:24:43PM
2 problem with him coming back with another form. 12:24:46PM
3 COMMISSIONER: What's being suggested is this is the original 12:24:51PM
4 draft Mr Aziz provided you with. 12:24:54PM
5 MR TOVEY: I'm not suggesting; I'm simply asking, 12:24:57PM
6 Mr Commissioner. 12:24:59PM
7 COMMISSIONER: Yes?---In the information I read 12:25:00PM
8 there's - I think this is the corrected draft because 12:25:07PM
9 there's stuff in the original draft that I asked to be 12:25:16PM
10 removed. 12:25:19PM
11 Which is not in this document?---Which is not in this document. 12:25:20PM
12 I see. Yes. 12:25:23PM
13 MR TOVEY: All right. So your belief is that this is the 12:25:24PM
14 document you signed?---Do you have a copy of the one I've 12:25:28PM
15 signed - - - 12:25:41PM
16 I'm just asking you what your belief is?---My belief is this is 12:25:43PM
17 what I signed. 12:25:46PM
18 All right. Was it brought to you by Mr Aziz? How did you come 12:25:55PM
19 to sign it?---Mr Aziz brought the first to me, I made 12:26:03PM
20 changes by hand, and he took it away and then returned 12:26:07PM
21 with the final. 12:26:12PM
22 Was it the same day?---I'm sorry? 12:26:13PM
23 The same day?---Yes. 12:26:15PM
24 What, only hours later?---It was within - I remember him 12:26:16PM
25 returning in the evening to sign the final. So it was 12:26:23PM
26 within the same day. I don't know whether it was hours 12:26:32PM
27 or - but within the same day, Mr Tovey. 12:26:35PM
28 Was he with someone else?---When he came he came with another 12:26:37PM
29 gentleman to witness. 12:26:42PM

1 Who was that?---I don't recall who the gentleman was. 12:26:45PM
2 I remember he was a small man. But there was another 12:26:56PM
3 person with him, yes. 12:26:59PM
4 And what was the role of that person?---I had to swear. So he 12:27:00PM
5 was there to witness and go through the role. 12:27:08PM
6 So that person was the person who was a JP, was it?---I assume 12:27:12PM
7 so. 12:27:20PM
8 Or a commissioner for declarations?---Something, sure. 12:27:20PM
9 I didn't - I didn't ask. 12:27:26PM
10 This was a person who witnessed your signature?---They did 12:27:27PM
11 witness my signature; correct. 12:27:31PM
12 Was that person a councillor?---I don't know. I'd never met 12:27:33PM
13 that person before. I don't know. Sorry, Mr Tovey, would 12:27:41PM
14 it show who it is on the - do you have the signed copy? 12:27:51PM
15 I'm sure it showed - - - 12:27:54PM
16 Look, you're just going to have to answer my questions rather 12:27:56PM
17 than me answering yours?---But doesn't that answer your 12:27:59PM
18 question of who came with him? 12:28:01PM
19 Thank you. If you go to paragraph 5, 'In late 2016, the 12:28:04PM
20 respondent contacted me and said he was experiencing some 12:28:19PM
21 cash flow issues'. You then describe three 12:28:23PM
22 payments - sorry, three debts. As of this morning you 12:28:33PM
23 told me that when you made the arrangements for the loan 12:28:39PM
24 Mr Aziz told you that he didn't have debts and he didn't 12:28:44PM
25 tell you what they related to?---Sorry - - - 12:28:50PM
26 If that was the case, why is it that you are signing these 12:28:54PM
27 assertions which Mr Aziz has put in your 12:28:58PM
28 affidavit?---Mr Tovey, I didn't say Mr Aziz didn't have 12:29:01PM
29 debts. 12:29:03PM

1 No, what you said was that when you made the arrangements with 12:29:04PM
2 Mr Aziz - this is what you said on oath this morning, that 12:29:09PM
3 when you made the loan arrangement with Mr Aziz you 12:29:12PM
4 specifically asserted that he told you that he needed the 12:29:16PM
5 money to have debts but did not tell you what they related 12:29:20PM
6 to?---At that time, and it was none of my business at that 12:29:24PM
7 time. 12:29:30PM
8 And did he later tell you what they related to?---Yes, he did. 12:29:32PM
9 When was that? Just before you did this - just before you did 12:29:35PM
10 this affidavit, I suspect?---Well, I don't know. I don't 12:29:41PM
11 recall exactly when, but I was then made aware of it. But 12:29:44PM
12 again it was none of my business. My concern at the time, 12:29:47PM
13 Mr Tovey, was his matrimonial issue and me getting my 12:29:52PM
14 money back. I just wanted my money back. 12:29:57PM
15 (Indistinct) what I'm putting to you. You say here, 'In late 12:29:59PM
16 2016, the respondent contacted me and advised that he was 12:30:02PM
17 experiencing cash flow difficulties' blah, blah, blah, 12:30:08PM
18 blah, blah, go on to explain what he said. You then asked 12:30:12PM
19 him what he needed to borrow. So what you are there 12:30:17PM
20 asserting and which you think you've asserted in a sworn 12:30:21PM
21 affidavit is that before he lent you the money he had told 12:30:28PM
22 you what his debts were. What you told me without any 12:30:33PM
23 hesitation this morning that he definitely didn't do that; 12:30:40PM
24 he only told you that he had debts. So the question 12:30:44PM
25 is: given that Mr Aziz has prepared this affidavit, why 12:30:49PM
26 are you prepared to swear to him having said things which 12:30:54PM
27 he didn't say?---I guess I went on his word of what his 12:30:59PM
28 debts were. 12:31:06PM
29 What was it about the relationship with you which made you so 12:31:12PM

1 reckless as to the truth of what you were asserting on 12:31:15PM
2 oath?---What do you mean, Mr Tovey? 12:31:18PM
3 What you're putting here is a lie. He didn't come to you in 12:31:21PM
4 late 2016 before the loan and explain precisely what his 12:31:25PM
5 debts were. That's what you swore. Why did you falsely 12:31:29PM
6 swear that? What was it between you that made you feel 12:31:32PM
7 the necessity to falsely swear something that he put in 12:31:36PM
8 your affidavit?---I didn't falsely swear, Mr Tovey. 12:31:40PM
9 That's incorrect. He may have at the time told me. 12:31:43PM
10 I don't recall. I mean, I don't need to be more careful 12:31:46PM
11 in my responses. I don't recall, but I know at the time 12:31:50PM
12 he had debts. As I said earlier, he had debts. 12:31:54PM
13 See, what you're saying now is that - and you're simply 12:31:59PM
14 acknowledging the fact that what you said there is untrue. 12:32:05PM
15 It's not true that before the loan he had told you 12:32:08PM
16 precisely what his debts were. You understand you've said 12:32:12PM
17 that time and time again. Are we agreed on that?---Sorry, 12:32:15PM
18 say that last bit again? 12:32:22PM
19 Do you agree with the evidence that you have previously given 12:32:23PM
20 on several occasions that before - sorry, when you were 12:32:29PM
21 discussing the loan he didn't tell you what his precise 12:32:35PM
22 debts were?---He may have mentioned them. Was he precise? 12:32:38PM
23 I can't remember. I don't - - - 12:32:44PM
24 So we're now getting another version of events?---No, I'm 12:32:49PM
25 trying to go back and maybe I do need to be more precise. 12:32:52PM
26 Firstly, I don't recall. But I'm trying to dig my memory 12:32:58PM
27 to give you the absolute correct answers. 12:33:04PM
28 Well, look, that's not what you've done because what you've 12:33:09PM
29 done is you've sworn two different things. You've sworn 12:33:12PM

1 here on several occasions that he didn't - you've sworn 12:33:16PM
2 precisely that he didn't tell you what the debts were. 12:33:25PM
3 You've sworn in an affidavit prepared by him that he gave 12:33:29PM
4 you excruciating detail about the debts right to the 12:33:31PM
5 dollar. Now, and in fact it would appear that at some 12:33:36PM
6 stage in the future you are able even to remember all 12:33:41PM
7 that. That just wasn't true?---I don't know, Mr Tovey. 12:33:46PM
8 I don't know. I've got no comment. I don't know what to 12:33:53PM
9 say on that because a lot goes on in my life and what 12:33:57PM
10 I remember and what I don't remember. 12:34:01PM
11 Just look at it logically. Forget the evidence that you've 12:34:03PM
12 given which is contrary to this. This document comes to 12:34:07PM
13 you in 2017 some time, it has to be after May - - 12:34:12PM
14 -?---2018? 12:34:23PM
15 Yes, sorry, this comes to you in 2018 some time?---Not 17, yes. 12:34:23PM
16 Yes. So it's two years after the event. Now, you aren't going 12:34:28PM
17 to recall that he's told you 113,000, 61,000, 96,000; 12:34:34PM
18 you're not going to recall that two years later, are you? 12:34:40PM
19 You've just sworn up to that because that's what he had 12:34:44PM
20 put in the affidavit?---I don't know, Mr Tovey. Look, 12:34:47PM
21 I don't know. 12:34:54PM
22 COMMISSIONER: Mr Nehme, you just said a moment ago you're 12:34:58PM
23 trying very hard to be accurate?---Yes. 12:35:01PM
24 Right? What counsel is putting to you is you wouldn't possibly 12:35:04PM
25 have remembered those precise amounts two years after the 12:35:10PM
26 event, and that really you only agreed to that because 12:35:15PM
27 that's what Mr Aziz put in the document. Is it true - - 12:35:20PM
28 -?---At - - - 12:35:27PM
29 Just bear with me. Is it true to say in answer to that, 12:35:27PM

1 'I don't know what the explanation is' or - there can only 12:35:30PM
2 be two explanations: one, that you say, 'No, actually, it 12:35:35PM
3 was my state of memory then that I could remember 12:35:39PM
4 precisely what these amounts were,' or, 'No, I couldn't, 12:35:43PM
5 but I accepted that these things were truthful because 12:35:46PM
6 that's what he put in the affidavit for me.' Which of the 12:35:49PM
7 two is it?---I don't know the answer to that, 12:35:51PM
8 Commissioner. 12:36:06PM
9 You're just trying to have a bit both ways here, aren't 12:36:12PM
10 you?---No, I'm trying to be honest, as I have been through 12:36:16PM
11 this whole thing, Commissioner. 12:36:20PM
12 But, Mr Nehme, you know full well that if you adopt the first 12:36:21PM
13 of those propositions, namely - I'm sorry, the second of 12:36:24PM
14 them, 'Of course I couldn't remember those precise 12:36:28PM
15 details, but I nonetheless swore the affidavit because 12:36:32PM
16 Mr Aziz had put those matters in the affidavit for me,' 12:36:36PM
17 you would be acknowledging that you swore to something 12:36:39PM
18 that was not true?---But he would have told me these 12:36:43PM
19 amounts in the past, and I don't know when. Was it 2016? 12:36:48PM
20 I don't know. Did I read this correctly at the time when 12:36:56PM
21 I swore it? Is this the final affidavit that I signed? 12:36:59PM
22 I'm not saying this isn't, but I don't know. Were changes 12:37:06PM
23 made to this? This is unsigned. Is this a draft or is 12:37:11PM
24 there a signed version? 12:37:15PM
25 No, this is a draft and at present we're working on the basis 12:37:17PM
26 that you think that this is the corrected draft after you 12:37:21PM
27 had some things deleted from it that you couldn't agree 12:37:25PM
28 to?---But is it possible to get a copy of the completed 12:37:29PM
29 signed, stamped affidavit? 12:37:35PM

1 I'm sure it is. It may not be possible during the course of 12:37:39PM
2 this examination?---Sure. But it would also answer, in 12:37:43PM
3 fairness to Mr Tovey's question earlier, of who came with 12:37:48PM
4 Mr Aziz, because I can't recall. But at least that would 12:37:51PM
5 cover that question as well, Mr Tovey. 12:37:55PM
6 Yes. 12:37:57PM
7 MR TOVEY: At this stage we're simply working on your 12:38:00PM
8 recollection that this you think is the affidavit which 12:38:03PM
9 you ultimately signed, and it's likely to be true because 12:38:07PM
10 this came off Mr Aziz's computer. So it's likely to be 12:38:11PM
11 the last version that was on the computer on the - - 12:38:17PM
12 -?---Is there an original version, Mr Tovey? 12:38:20PM
13 Look, I'm just suggesting to you that at this stage we will 12:38:22PM
14 work on the basis that what you've done is signed this 12:38:27PM
15 one. If it turns out it wasn't the case, well, we'll find 12:38:31PM
16 out in due course. But nevertheless - - -?---That's why 12:38:34PM
17 I would like to see the final signed-off version to 12:38:40PM
18 clarify that. 12:38:43PM
19 You've given evidence that you believe this is what it was. 12:38:43PM
20 I can only examine you on that basis and, with that in 12:38:47PM
21 mind, I now turn to paragraph 6 which is - which asserts, 12:38:52PM
22 'I asked him' - that's you - 'what they needed to borrow 12:39:02PM
23 and for how long. He advised around \$250,000 for between 12:39:08PM
24 6 to 9 months. And I could only lend him \$230,000'; do 12:39:15PM
25 you see that?---Yes. 12:39:25PM
26 And do you see any problem with that being an assertion in a 12:39:27PM
27 sworn affidavit?---In what sense, Mr Tovey? I've just 12:39:33PM
28 read that again. What are you referring to? 12:39:50PM
29 That affidavit asserts that you had a specific recollection of 12:39:52PM

1 him asking for \$250,000?---Yes. 12:39:57PM

2 And you told him you could only lend him \$230,000?---That's 12:40:04PM

3 correct. 12:40:09PM

4 But in fact you lent him \$251,000. So how could you have a 12:40:09PM

5 recollection of such a conversation in those 12:40:16PM

6 circumstances? That conversation is impossible to have 12:40:20PM

7 been had if in fact you lent him 251?---As I said as 12:40:23PM

8 recent as last Friday I learnt about the 21,000, Mr Tovey. 12:40:29PM

9 COMMISSIONER: No, no, no, you keep saying that, Mr Nehme, but 12:40:34PM

10 that's just palpably incorrect. You didn't first learn 12:40:36PM

11 about it last week. You first learned about it on the 12:40:39PM

12 day - on 29 September when you made the payment of 12:40:46PM

13 \$21,000. So why persist with the notion, 'I first learned 12:40:52PM

14 about it a week ago'?---Commissioner - - - 12:40:55PM

15 You're saying you forgot about it. That's your 12:41:01PM

16 explanation?---Yes, but can I rephrase. I learnt about it 12:41:03PM

17 during the Commission - - - 12:41:06PM

18 No, no, if you want to be accurate you would say, on the basis 12:41:07PM

19 you want to be believed, 'I again learned about it a week 12:41:11PM

20 ago,' but you are not suggesting for a moment - - -?---No, 12:41:17PM

21 I'm saying I learnt about it during - - - 12:41:20PM

22 Mr Nehme, you're not suggesting for a moment, are you, that in 12:41:22PM

23 the two days after you made that payment your state of 12:41:26PM

24 mind and medical condition was such that you forgot that 12:41:30PM

25 you had made a payment two days earlier?---I don't recall 12:41:36PM

26 it, otherwise I would have recorded it in the loan. 12:41:40PM

27 Yes?---But can I just repeat I was made aware of it during the 12:41:45PM

28 Commission - - - 12:41:49PM

29 I don't know why you - and I don't know why you keep doing that 12:41:49PM

1 because your state of mind - what we're interested in is 12:41:53PM
2 not when you were reminded of it; we're talking about what 12:41:58PM
3 your state of mind was two years ago, do you follow? Not 12:42:01PM
4 what you were reminded about. You've been reminded about 12:42:05PM
5 a lot of things obviously. We're talking about your state 12:42:09PM
6 of mind back in October 2016; you understand that, don't 12:42:12PM
7 you?---Yes. 12:42:19PM
8 Yes, Mr Tovey. 12:42:28PM
9 MR TOVEY: So what I put to you in paragraph 6, I'd suggest, is 12:42:30PM
10 an obvious fabrication because it's inconceivable that you 12:42:34PM
11 could have had that conversation at the time when in fact 12:42:39PM
12 the loan was 250,000 - \$251,000?---Sorry, so what are you 12:42:45PM
13 saying, Mr Tovey? 12:42:57PM
14 What I'm saying is paragraph 6 - I'm not saying but what I'm 12:42:58PM
15 asking you to comment on is that the logic of the analysis 12:43:02PM
16 indicates that the only explanation for paragraph 6 is 12:43:11PM
17 that there's been a joint fabrication by you and Mr Aziz - 12:43:16PM
18 - -?---No, I disagree. 12:43:21PM
19 Which has found its way into this affidavit?---I disagree. 12:43:22PM
20 COMMISSIONER: Perhaps, Mr Tovey, you need to make - perhaps 12:43:27PM
21 I'll ask the question, Mr Nehme. We know that you in fact 12:43:29PM
22 provided Mr Aziz with \$251,000 paid into his wife's 12:43:37PM
23 account; correct?---Correct. 12:43:44PM
24 So it could not have been correct for you to say in your 12:43:47PM
25 conversation with him before you commenced those payments 12:43:53PM
26 that you could only lend him \$230,000; do you understand 12:43:57PM
27 that?---Can you repeat that last bit again? 12:44:07PM
28 We know you paid him \$251,000?---Correct. 12:44:11PM
29 So - - -?---We now know that, yes. 12:44:14PM

1 No, no, you're doing that again?---No, but I'm - - - 12:44:17PM
2 We're talking about - - -?---Commissioner, I'm admitting 12:44:21PM
3 I absolutely forgot, otherwise it would have been in the 12:44:24PM
4 original loan. 12:44:27PM
5 No, no, we're talking about - - - ?---Why would I forgive 12:44:28PM
6 \$21,000? 12:44:33PM
7 Well, we can suggest some answers, Mr Nehme?---Please do. 12:44:33PM
8 I'm asking you about this paragraph here?---Yes. 12:44:36PM
9 You in fact made payments of \$251,000 to him. It can't then be 12:44:41PM
10 correct that your state of mind immediately before you 12:44:52PM
11 made those payments when you talked to him about giving 12:44:58PM
12 him the money was that you could only lend him 230,000. 12:45:01PM
13 We know from what you did immediately thereafter that you 12:45:07PM
14 did lend him not 230,000 but 251,000. So Mr Tovey is 12:45:10PM
15 asking you about the fact that that's plainly false, that 12:45:20PM
16 you said to Mr Nehme - Mr Aziz, 'I can only lend you 12:45:24PM
17 230,000.' That's false, isn't it?---No, that's what I did 12:45:29PM
18 say. 12:45:35PM
19 And then provided him with 251,000. It doesn't make sense, 12:45:35PM
20 does it?---As I keep saying, Commissioner, it was an error 12:45:45PM
21 and I'll stick by that because it's a fact. 12:45:48PM
22 Yes, I'm sure you will. All right. 12:45:51PM
23 MR TOVEY: If we go on to paragraph 7, 'I also told him that 12:45:57PM
24 I would need time to arrange the funds. The respondent 12:46:02PM
25 agreed to the timeframes I requested and the terms. 12:46:06PM
26 I asked him if the applicant is aware in case anything 12:46:16PM
27 should happen to him. He said yes and suggested that the 12:46:22PM
28 funds be deposited to the account of the applicant and she 12:46:27PM
29 would transfer them to cover what is required to show a 12:46:32PM

1 trail in case something should happen to him. I agreed 12:46:36PM
2 and he thanked me and we shook hands on the matter.' Now, 12:46:41PM
3 irrespective of the fact that that proposed way of keeping 12:46:48PM
4 a trail doesn't make sense, you gave evidence earlier this 12:46:54PM
5 morning that there was no conversation about why the money 12:46:59PM
6 was going into the Armanious account, you just accepted 12:47:02PM
7 and that was it and you were very specific about that. So 12:47:06PM
8 how is it that we have in the affidavit an account of a 12:47:13PM
9 discussion before the money being deposited as to some 12:47:17PM
10 convoluted reason why it would go into his wife's account 12:47:23PM
11 and be capable of being traced in case he passed 12:47:27PM
12 away?---So your question is, Mr Tovey? 12:47:37PM
13 Your response to me this morning, your evidence this morning 12:47:39PM
14 was this conversation didn't take place. It's in your 12:47:45PM
15 affidavit. I want to know how it came to be in your 12:47:49PM
16 affidavit and whether you now - first of all, whether or 12:47:52PM
17 not such a conversation did take place?---I can't recall 12:47:57PM
18 all conversations, but I remember asking him and I know 12:48:03PM
19 why - - - 12:48:06PM
20 I have explained to you - - - 12:48:06PM
21 COMMISSIONER: Mr Tovey, let Mr Nehme finish, please. 12:48:08PM
22 MR TOVEY: Sorry?---Of wanting - there's two reasons why, one, 12:48:11PM
23 I wanted the money from my account to be transparent to 12:48:16PM
24 whichever account he requested; and, secondly, if 12:48:20PM
25 something ever happened to him, I remember asking him 12:48:23PM
26 this, 'How do I get my money back,' hence why I asked 12:48:25PM
27 whether she was aware, his wife was aware of this, and 12:48:30PM
28 that's where he said yes. 12:48:34PM
29 Yes?---So I wanted a trail of some sort that I could trace to 12:48:39PM

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get my funds back.

I mean, here you are, you're a businessman; you have access to the best accountants and lawyers?---Obviously not a good businessman, by the looks of it, Mr Tovey.

Did it not occur to you that the best way to get your money back was to have a loan agreement witnessed?---I'm obviously not a good businessman.

COMMISSIONER: Mr Nehme, you understood from what Mr Aziz had told you that he was going to utilise this money to pay off various debts, didn't you?---That was my understanding.

And Mr Aziz in his affidavit in the matrimonial proceedings said this, he said, 'The wife carried out the dentistry practice from this location until approximately August 2016 when the practice was sold for \$585,000. There was capital gains tax payable as well as a number of business expenses and payout of equipment loans, and we were therefore forced to borrow 230,000.' If that's right and you had any inkling at all of the nature of his debts, you understood that that \$230,000 was going to be quickly consumed. Where did you think the money was going to come from for him to repay you?---I go back to my original understanding where he told me - he told me that money was coming out of that \$600,000 that he withdrew at the time.

Sorry, he told you that at what point of time?---When the money was being paid back. And I remember saying - sorry? Whatever he told you at the time of the \$600,000 cash amount being repaid by Mr Woodman to him, I'm asking you about what your understanding was at the time that you gave him

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1 this money. Did you understand that this money was going 12:51:05PM
2 to get consumed in his debts?---My understanding was it 12:51:12PM
3 was going to his debts, yes. 12:51:18PM
4 And where did he tell you the capacity would come from to repay 12:51:19PM
5 you?---I don't recall at the time. 12:51:25PM
6 And then you say when he finally did repay you, you say, it 12:51:34PM
7 came from the \$600,000 that he had lent 12:51:39PM
8 Mr Woodman?---That's what he - no, he said to me it's come 12:51:44PM
9 from the \$600,000 that he withdrew from Westpac at 12:51:47PM
10 Berwick. 12:51:52PM
11 Yes, and we know as a fact that that - contrary to his evidence 12:51:53PM
12 in private examination, we know that the full \$600,000 12:51:59PM
13 went to Mr Woodman. There wasn't any \$230,000 to come to 12:52:03PM
14 you. So where did it come from?---I have no idea. 12:52:09PM
15 No?---I have no idea. I'm only going on what he told me, 12:52:14PM
16 Commissioner. 12:52:17PM
17 Yes. 12:52:18PM
18 MR TOVEY: What we do know, sir, is that both at the Woodman 12:52:22PM
19 end and at your end, I'd also suggest, in 2017 at the time 12:52:26PM
20 that these repayments were supposed to be taking place 12:52:33PM
21 false documents were being prepared to seek to indicate 12:52:37PM
22 that \$230,000 - sorry, to seek to indicate that the loan 12:52:44PM
23 to Woodman was not \$600,000 but \$370,000, leaving \$230,000 12:52:55PM
24 to be available to pay you. False documents were created 12:53:14PM
25 by Aziz and Woodman and Woodman's secretary at that time 12:53:21PM
26 to reflect that fact. Is that just a coincidence?---I'm 12:53:26PM
27 not aware of those documents, Mr Tovey. You're saying 12:53:33PM
28 that Mr Woodman's secretary created those - who created 12:53:42PM
29 those documents that you're talking about? 12:53:46PM

1 In June/July of 2017, at the same time you and Aziz are what 12:53:47PM
2 I'd suggest creating false documents to give substance to 12:53:56PM
3 an assertion that he has repaid a loan of \$230,000, 12:54:04PM
4 precisely the same sort of false documentation is being 12:54:10PM
5 created on the other side of the fence between Aziz and 12:54:14PM
6 Woodman to create documents showing the capacity of him to 12:54:18PM
7 be able to repay you \$230,000 when in fact he did not have 12:54:25PM
8 that capacity. Now, from your point of view that's just a 12:54:31PM
9 coincidence, is it?---I don't have any comment on that 12:54:37PM
10 because I don't know about the documents, and 12:54:43PM
11 I don't - - - 12:54:49PM
12 What I'd suggest to you is it's apparent from your affidavit 12:54:49PM
13 that you were prepared to swear to a number of matters 12:54:52PM
14 which were just obvious rubbish about which you had no 12:54:58PM
15 knowledge because Mr Aziz - - -?---That's incorrect. 12:55:01PM
16 That's incorrect, Mr Tovey - - - 12:55:05PM
17 Mr Aziz had a hold on you - - -?---You're talking about an 12:55:07PM
18 affidavit that I haven't signed. 12:55:11PM
19 Well, look - - -?---Provide me the affidavit that I signed - - 12:55:12PM
20 - 12:55:17PM
21 MS BORG: Mr Commissioner, you're on mute. We can't hear you. 12:55:17PM
22 COMMISSIONER: That's why things are out of control. It's no 12:55:23PM
23 good each of you talking over the other one; all right? 12:55:26PM
24 Mr Tovey, you finish your question and then when you've 12:55:29PM
25 finished allow Mr Nehme to give his full answer. What's 12:55:32PM
26 the question? 12:55:36PM
27 MR TOVEY: What I'm suggesting to you is that it's apparent 12:55:38PM
28 from what we've just been going through that you were 12:55:44PM
29 prepared, if you signed this affidavit, to sign up to lots 12:55:50PM

1 of things that you didn't even know about in order to 12:55:58PM
2 support Mr Aziz. Now, you might say, 'Well, look, I'm not 12:56:00PM
3 even sure I did sign this affidavit.' The thing is that 12:56:07PM
4 Mr Aziz gave this to you expecting you to sign it. Why 12:56:10PM
5 would - what was the relationship between you which could 12:56:16PM
6 lead Mr Aziz to provide you with an affidavit which had 12:56:21PM
7 lots of information in it which you couldn't possibly have 12:56:26PM
8 been able to assert as the truth?---So your question is? 12:56:31PM
9 Was there a corrupt relationship - - -?---No. 12:56:39PM
10 Between yourself and Mr Aziz which gave him a hold over you 12:56:42PM
11 such as you felt compelled to sign or to consider signing 12:56:47PM
12 a false affidavit?---No, not at all. Not at all. I've 12:56:51PM
13 signed plenty of affidavits in my time, whether it be for 12:56:56PM
14 friends or whatever. I understand what an affidavit is. 12:57:00PM
15 How many of them were false in - - -?---None of them were 12:57:04PM
16 false, Mr Tovey, and I ask you to take that back. None of 12:57:08PM
17 them were false. 12:57:12PM
18 All right?---You're suggesting and then you're claiming. I'm 12:57:13PM
19 not quite sure what you're - where you are coming from. 12:57:17PM
20 One minute you're suggesting, the next minute you're 12:57:21PM
21 claiming. 12:57:24PM
22 What I'm doing, sir, is giving you the opportunity of 12:57:25PM
23 commenting - - - ?---And I'm saying that you're wrong. 12:57:27PM
24 On the conclusions that are capable of being drawn - - -?---I'm 12:57:30PM
25 saying you're wrong. 12:57:34PM
26 On analysis of all this material. I want you to understand 12:57:36PM
27 that those conclusions are conclusions which will 12:57:38PM
28 certainly be considered and to which you have the right to 12:57:43PM
29 make comment before they are considered. Now, if you can 12:57:48PM

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give some rational explanation, we would be more than pleased to hear it?---Mr Tovey, I lent Mr Aziz 230,000 which I recollect at the time, I understand now it's 251,000, and I got paid back. It's very simple. I'm still trying to work out what I've done wrong.

COMMISSIONER: You engaged with Mr Aziz, according to him, in circumstances where he had a conflict of interest. I've asked you yesterday - I don't know whether you've reflected on it further overnight - I asked you yesterday and I'll ask you again now are you able to tell the Commission what was the conflict of interest that Mr Aziz considered he had with you? You seem to be saying that you had an entirely normal professional relationship with a councillor, in which case no conflict of interest would have arisen. Are you able to enlighten the Commission as to what that conflict was?---Commissioner, can I bring up the sale of Casey. I remember Mr Aziz telling me, and I remember the word clearly, probity at the time, and he made it very clear to me that any councillor that talks to any potential purchaser, that the process stops. And I remember him making that very clear to me.

Yes, and you told the Commission that he had no communications with you that infringed that probity?---Correct.

Correct?---So - - -

I'm not asking you about that. I'm asking you about the number of occasions that you said that he raised the issue of conflict of interest. I'm asking you if he told you what that conflict was, because on your testimony - on your testimony there was nothing that gave rise to a

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conflict?---I can't pinpoint conversations, but I was
always very respectful of his position and then it was up
to him to tell me whether there was a conflict or not.

MS BORG: Is it an appropriate time, Mr Commissioner?

COMMISSIONER: Yes. You would like to speak with your client?

MS BORG: I just notice that we've been going for a long time
and it's now one o'clock and I wasn't sure whether you
wanted a break, because I need one.

COMMISSIONER: All right. Fine. We'll adjourn until 1.45.

MS BORG: Thank you, sir.

COMMISSIONER: Thank you.

<(THE WITNESS WITHDREW)

LUNCHEON ADJOURNMENT

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