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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

MONDAY, 9 NOVEMBER 2020

(25th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH AM, QC

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

OPERATION SANDON INVESTIGATION

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

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

1 COMMISSIONER: Thank you. Good afternoon, Mr Staindl.

2 MR P. STAINDL: Good afternoon.

3 COMMISSIONER: I'm conducting this public examination pursuant  
4 to part 6 of the Independent Broad-Based Anti-Corruption  
5 Commission Act 2011. Mr Tovey will be senior Counsel  
6 Assisting, and I authorise Mr Tovey to examine Mr Staindl.  
7 The proceedings are what we call inquisitorial; that is,  
8 the Commission is not bound by the rules of evidence and  
9 it may regulate the conduct of the examination as  
10 considered appropriate. That said, I will largely follow  
11 the procedures as they are followed in the court of law  
12 and the rules of evidence will in the main apply.

13 Counsel Assisting the Commission will ask you  
14 questions, Mr Staindl. I may also ask you questions.  
15 Following the completion of those questions your legal  
16 representative will have the opportunity to ask questions,  
17 to clarify answers or to add anything further that you  
18 wish to in relation to any matters that have been  
19 explored.

20 The proceedings are conducted by audiovisual link  
21 pursuant to Part 3 of the COVID-19 Omnibus Regulations  
22 2020. Witnesses and their legal representatives are not  
23 required to stand at the commencement, breaks or end of  
24 the examination or when taking an oath or affirmation or  
25 in giving their appearance.

26 If, Mr Staindl, you or your legal representative  
27 at any stage have difficulty hearing questions or  
28 understanding them, please immediately indicate your  
29 difficulties and we'll seek to address the problem or, if

1 it's a question of understanding the questions, Counsel  
2 Assisting will ask the question again or may rephrase it.  
3 Please refer to the Commission's operating procedures for  
4 virtual examinations if you have further questions in  
5 relation to the procedure that we're following.

6 Mr Lavery, I note your attendance to represent  
7 Mr Staindl, instructed by Elizabeth Dowling of Dowling  
8 McGregor Lawyers. Mr Lavery, I'm quite comfortable with  
9 you interrupting the examination if at any point you feel  
10 that Mr Staindl could clarify or expand on some answer  
11 that he's given Mr Tovey or me if you feel that that would  
12 be of assistance.

13 MR LAVERY: Yes, Commissioner. I understand.

14 COMMISSIONER: As the examination is being conducted virtually  
15 using an audiovisual link, no authorised persons should be  
16 present in any room from where the live stream of  
17 the virtual examination is taking place or be able to hear  
18 those proceedings in that room.

19 Mr Staindl, it's necessary for me to just remind  
20 you of the matters about which you've been summonsed to  
21 give evidence. Those matters are, first, the  
22 consideration of development applications and other  
23 planning matters by the City of Casey councillors,  
24 including but not limited to the relationships between  
25 City of Casey councillors and property developers; second,  
26 public officers' planning and property development  
27 decision making at the City of Casey Council being  
28 corruptly influenced, including but not limited to the  
29 making of political donations or payments to gain

1 favourable decision making within the City of Casey  
2 Council; third, the use of lobbyists or planning  
3 consultants to improperly influence planning and property  
4 development decision making within the City of Casey  
5 Council; fourth, the subject of the scope and purpose  
6 described in the attached 'Further information and  
7 directions for public examinations in Operation Sandon',  
8 in particular as they apply to the City of Casey Council,  
9 or planning or property development activities within  
10 Victoria that involved John Woodman, his family, his  
11 associated entities or his business associates; and,  
12 finally, the transparency and integrity of dealings  
13 between public officers involved in planning and property  
14 development decision making, including any person elected  
15 or seeking election to a municipal council or the  
16 parliament of Victoria, and any person who may be directly  
17 or indirectly benefitting from that decision making,  
18 including but not limited to landowners, property  
19 developers or the consultants and any representative of  
20 those persons, including persons engaged in lobbying  
21 activities.

22 <PHILIP JOSEPH STAINDL, affirmed:

23 COMMISSIONER: Mr Staindl, at the time you were served with a  
24 summons to attend today, did you receive a document  
25 entitled 'Statement of rights and obligations'?---I think  
26 so, yes.

27 Has Mr Lavery or your solicitors explained that document to  
28 you?---I've had a good discussion with Mr Lavery, so I'm  
29 sure he would have briefed me on any matters pertaining to

1 it.

2 Yes. Mr Lavery, are you able to indicate did you explain the  
3 rights and obligations to Mr Staindl? You're on mute,  
4 Mr Lavery.

5 MR LAVERY: I apologise, Commissioner. I did explain to  
6 Mr Staindl his rights and obligations, not in terms of  
7 taking him through the document section by section, but in  
8 terms of summarising the effect of the document.

9 COMMISSIONER: Very good. Mr Staindl, I think out of an  
10 abundance of caution I'll just remind you of what those  
11 rights and obligations are. You're entitled to seek legal  
12 advice in relation to the summons and the examination.  
13 You've done that, and you are entitled to have legal  
14 representation. You are having that representation. You  
15 may claim a privilege if one applies, but you are not  
16 excused from answering a question, giving information or  
17 producing a document or other thing on the ground that the  
18 answer, information, document or other thing might tend to  
19 incriminate you or make you liable to a penalty. If you  
20 do provide an answer or give information, documents or  
21 other things that tend to incriminate you, an immunity as  
22 to the use of that evidence will ordinarily apply. You  
23 have the right to complain to the Victorian Inspectorate  
24 about any aspect of the matter in which this examination  
25 is conducted. So your obligation is to answer questions  
26 that you're asked, unless you have a reasonable excuse for  
27 not doing so. You must answer the questions even if they  
28 may incriminate you or make you liable to a penalty. You  
29 must answer the questions truthfully, otherwise you may

1 expose yourself to the risk of a perjury charge which  
2 carries a substantial term of imprisonment. Importantly,  
3 if you answer the questions truthfully, then the answer is  
4 not admissible and cannot be used against you in any  
5 court, the exception being if you give false evidence,  
6 then that evidence can be used against you on a perjury  
7 charge. Finally, Mr Staindl, please let me know at any  
8 stage if you want to have a break or if you would like to  
9 consult with your legal representative and we'll  
10 accommodate that need if and when it arises. But you  
11 shouldn't feel obliged to remain being examined if you  
12 would like to have a break. Do you understand?---Yes,  
13 I do.

14 Very good. Yes, Mr Tovey.

15 <EXAMINED BY MR TOVEY:

16 Mr Staindl, just a couple of formal matters to start with. Is  
17 your full name Philip Staindl?---Yes, Philip Joseph  
18 Staindl.

19 Philip Joseph, thank you. And are you here pursuant to summons  
20 SE3350 of 19 October 2020 which was served upon  
21 you?---Yes, I am.

22 COMMISSIONER: I'm sorry, Mr Tovey, I heard someone saying in  
23 the background they couldn't quite hear. Who was that,  
24 please?

25 MR TOVEY: No, that was Siri, Mr Commissioner.

26 COMMISSIONER: Who was that?

27 MR TOVEY: Siri on the iPhone.

28 COMMISSIONER: Okay. I hope Siri has been dispatched. Very  
29 good.

1 MR TOVEY: I'm not going to promise.

2 COMMISSIONER: All right.

3 MR TOVEY: With that summons you received a cover letter dated  
4 21 October 2020 which included with it a statement of your  
5 rights and obligations?---Yes.

6 Now, Mr Staindl, you are in business, are you, as a  
7 lobbyist?---Yes.

8 As a lobbyist do you focus on any particular area of  
9 politics?---Primarily state politics. So I have had the  
10 odd federal client, but there's a broad suite of subject  
11 matters.

12 What about council politics?---Very, very limited, so - I'm  
13 trying to work out a proportion. Council politics  
14 sometimes plays into state politics, but I rarely perform  
15 the duties of a lobbyist with councillors that you would  
16 associate with the role of a lobbyist.

17 Over what period of time have you worked as a lobbyist?---Over  
18 25 years now.

19 And is your lobbying focused on a particular political  
20 party?---Well, I have a long and active background in the  
21 Labor Party. So, yes, I have better knowledge and links  
22 and contacts with the ALP side of politics than any other  
23 side. That's not to say that I don't from time to time  
24 seek meetings with other political party representatives,  
25 but it's primarily on the Labor side of the fence.

26 When did you first become a lobbyist?---I think it was about  
27 1994, April 1994 I registered my first business.

28 And what was that?---It was Philip Staindl Consultant then.

29 And did you operate as an individual or - - -?---Yes.

1 Otherwise?---As an individual.

2 Did you employ people?---No. Not then.

3 What was your background up until 1994 in terms of do you have  
4 any particular business qualifications or academic  
5 qualifications?---I've got a bachelor of arts specialising  
6 in media and communications, and I was a political staffer  
7 through the 1980s and very early 90s.

8 For whom?---I worked for four different ministers during the  
9 Cain-Kirner government era.

10 So that was all at state political level?---Yes, my very first  
11 role was as an electorate officer to a federal member of  
12 parliament in West Gippsland.

13 And as a political staffer, could you tell us what that term  
14 embraces?---Well, you're there on the personal staff of a  
15 minister to assist in whatever the duties the minister is  
16 carrying out, and there would be a lot of parliamentary  
17 liaison, researching, speeches, organising events. For  
18 example, agriculture used to - I worked for two different  
19 ministers for agriculture. There would often be meetings  
20 to non-metropolitan areas to meet with stakeholder groups  
21 and representatives, so it would be making sure all the  
22 logistics to those visits were coordinated and executed  
23 properly.

24 Okay.

25 COMMISSIONER: Mr Staindl, just a moment. Sorry, Mr Tovey.

26 I should have said there's normally a delay of a couple of  
27 seconds from the time someone speaks until the sound is  
28 reflected, so it's helpful when someone speaks to take a  
29 moment before responding. I wanted to ask, Mr Staindl, in

1 this day and age we have what is commonly described as  
2 political advisers who work with ministers. I take it  
3 you're familiar with the role that a political adviser of  
4 today plays in a minister's office?---Yes, I am.

5 Is there a material difference between the role a political  
6 adviser plays today and the role that you were performing  
7 as a ministerial staffer as you've described?---In  
8 essence, no. Some of the techniques are very different  
9 now, and that's largely because of the various  
10 communications options open to people, but the role of  
11 supporting a minister is fundamentally the same.

12 Thank you. Yes, Mr Tovey.

13 MR TOVEY: Thanks, Mr Commissioner. Mr Staindl, so the  
14 ministers with which you were concerned were, you've told  
15 us, agriculture. Any other ministries?---Yes, education,  
16 police and emergency services, and labour briefly.

17 As a political - were you a chief of staff?---No.

18 Was there a chief of staff in your time?---Yes - - -

19 Associated with the offices of various ministers?---Some  
20 weren't called the chief of staff, but there was usually a  
21 senior adviser who fulfilled that role in a de facto  
22 manner if they weren't - if they didn't have the title.

23 Were you personally or was the person who filled the role of  
24 chief of staff with whom you were working at any given  
25 time subject to any written protocols as to the way in  
26 which you dealt with persons who were seeking to have a  
27 particular minister do something?---No.

28 Are there any protocols that you are aware of extant at this  
29 point in time or in recent times governing that

1 interface?---I've been unable to locate any written  
2 protocols. But I know there were some unofficial  
3 protocols that were designated, particularly with  
4 the Minister for Planning's office.

5 All right. So for how long were those protocols - or how long  
6 ago were those protocols introduced?---I can't say with  
7 absolute certainty, but I certainly know they've been in  
8 existence since 2014.

9 What were they?---The essential one was that in terms of  
10 fundraising events the Minister for Planning would not  
11 attend small scale fundraising events. He may from time  
12 to time attend events for the purposes of policy  
13 discussion, but where that occurred there would usually be  
14 a probity auditor present in the room.

15 The protocols I was enquiring about weren't so much about  
16 the interface between the minister and people who might be  
17 seeking his ear, but between the chief of staff and people  
18 who might be seeking to make representations to the  
19 minister; you understand?---I do. I've never sighted any  
20 such protocols. It's possible that they do exist within  
21 government, but I'm not aware of them. I should add there  
22 is a lobbyists' code of conduct and it explains in general  
23 terms how you're expected to conduct yourself, but it  
24 doesn't go into a line by line specific item.

25 COMMISSIONER: Mr Staindl, counsel's questions are directed,  
26 though, not to the party making representations to the  
27 minister's chief of staff or adviser; he's asking you are  
28 there or were there any protocols that dictated how the  
29 staffer, the ministerial adviser, should act when being

1 approached by a lobbyist or by anyone else wanting to make  
2 representations to a minister?---There weren't in the days  
3 when I was a ministerial staffer. There may well be now.  
4 But I haven't - I've never sighted them.

5 Very good. Thank you.

6 MR TOVEY: Going back then to - so you were a staffer for quite  
7 a number of years?---Yes.

8 After that, what did you do?---I'm just trying to think. I had  
9 a year as a mayor of an outer-eastern metropolitan  
10 council, and then I started up - and I was also working as  
11 an executive officer for a regional group of councils and  
12 I then started up my own government relations and  
13 communications business in 1994.

14 COMMISSIONER: Could I just take you back, Mr Staindl, to  
15 something else you said to Counsel Assisting. You  
16 mentioned that to your knowledge there are some protocols  
17 that applied to the Minister for Planning in relation to  
18 I think you mentioned small functions. Did I take it from  
19 that answer that you don't understand that there are any  
20 protocols that exist in relation to other ministers?---I'm  
21 not aware of any formal protocols.

22 Yes. And you mentioned that if the Minister for Planning went  
23 to a function, a larger function, that there would be  
24 expected to be - I think you used the term a 'probity  
25 auditor'?---Yes.

26 What is a probity auditor, please?---They were events organised  
27 through Progressive Business, which was an entity set up  
28 by the state ALP, one to raise funds, but also promote an  
29 active dialogue between the business community and

1 government. In the case of the Minister for Planning, if  
2 he or she were to be present at an event, then Progressive  
3 Business would organise a probity auditor to be in  
4 attendance to ensure that there would be no specific  
5 questions asked of the minister in - sorry, any questions  
6 asked of the minister in relation to specific planning  
7 projects or applications.

8 And, I'm sorry, where would the probity auditor be drawn  
9 from?---An independent financial house. There are  
10 apparently - it was my first exposure to them, but there  
11 are designated probity auditors.

12 Are they normally drawn from a firm of accountants?---Yes.

13 Yes, thank you.

14 MR TOVEY: So at the time you set up in business yourself then  
15 as a lobbyist, had you in the years leading up to that  
16 time been a member of any political organisation?---Yes,  
17 I've been a member of the Australian Labor Party for over  
18 40 years now. In fact, I have life membership, and I've  
19 been a candidate on numerous occasions, unsuccessfully.

20 As a member of the ALP did you fulfil, other than as a member  
21 of a minister's staff, did you fulfil any administrative  
22 functions either paid or unpaid?---Certainly not paid.  
23 I have been on various policy committees from time to  
24 time, never on a state administrative committee or  
25 organisation, but I have been, as I indicated, an endorsed  
26 candidate on four occasions over that 40-year period.

27 When you speak about being on committees, can you just give us  
28 some insight into what that involved?---The state  
29 conference of the ALP will elect from the party membership

1 usually about 20 people to form a policy committee to make  
2 policy in given areas. So, for example, in agriculture  
3 and rural affairs, I was on that particular committee for  
4 quite some time. That was purely voluntary and we would  
5 meet usually on a monthly basis to help shape broad-based  
6 policy in relation to agricultural and rural affairs  
7 matters.

8 And were you involved in that way in developing any other  
9 policies, other areas of policy?---The other policy  
10 committee I was on for the few years in the mid-1990s was  
11 the conservation and environment policy committee.

12 Were you involved in money raising for the ALP throughout this  
13 period of time?---In the early 2000s I became a member of  
14 Progressive Business which, as I referred to earlier, is a  
15 corporate fundraising arm of the ALP. Before then I,  
16 particularly as a candidate, it's one of the perennial  
17 bugbears of a candidate, but you're always seeking to  
18 raise funds to fund your own campaign or I've certainly  
19 assisted in raising funds for other campaigns.

20 Were candidates expected to raise a certain amount?---It  
21 depends what size campaign they wanted to run. The figure  
22 could vary markedly. It depended on the nature of  
23 the seat, the margin required to win and what sort of  
24 effort the candidate or the candidate's campaign committee  
25 would put in to that seat.

26 Were candidates who were able to access considerable levels of  
27 donations people who were, because of that, given extra  
28 regard within the party?---Not to my knowledge.

29 When you say you joined Progressive Business, did you play any

1 role within Progressive Business?---Yes. They had a  
2 governing committee of about seven or eight people. I was  
3 on that committee for a number of years and actually  
4 served for two years as president of the organisation from  
5 2008 until 2010.

6 COMMISSIONER: Mr Staindl, throughout the period that you were  
7 involved with Progressive Business, were you also  
8 conducting your business as a lobbyist?---Yes, I was.

9 MR TOVEY: As a lobbyist, so you started off, when was it,  
10 1994?---Yes.

11 Could you please give us a rundown of the businesses that  
12 you've conducted, how they've operated since that  
13 time?---My businesses?

14 Yes?---Well, in those - the first four or five years it was  
15 effectively my own entity. I worked out of a home office  
16 with one other person who had been running his own  
17 business for quite some time. We tended to just work side  
18 by side, but operating our own client list and bank of  
19 clients. I then - - -

20 Was that person also an ALP person?---No. He wasn't  
21 politically aligned. He actually - he was a former  
22 executive director of the - no, policy director of the  
23 Victorian Farmers Federation and did work for a lot of  
24 rural based organisations.

25 Yes?---So I then joined a firm called the Clifton Group.

26 Sorry, what group was that?---The Clifton Group.

27 Yes?---Which was headed by a man called John Ridley, who had  
28 strong Liberal connections, but the firm was more a  
29 strategic communications firm and the government relations

1 side of it was a lesser emphasis. I worked - - -  
2 If I can just stop you there. What's the difference between  
3 strategic communications and government relations?---Well,  
4 strategic communications covers areas like the media and  
5 stakeholder engagement with various entities. If there's  
6 a project underway, then it may mean communicating with  
7 key stakeholders with an interest in that project.  
8 And government relations sounds to be self-evident. Is that  
9 conducted at a number of levels? Is it conducted at the  
10 level of bureaucrats, at the level of parliamentarians,  
11 ministers, at the level of councils, all three?---It  
12 varies according to the - I'm trying to think - to the  
13 nature of the business. I do, with the clients  
14 I represent, tend to concentrate on ministers, their  
15 offices and invariably it's their offices, that is their  
16 personal offices. There are certainly local MPs and other  
17 key MPs that may for whatever reason have a - excuse me,  
18 I'll just take a sip of water, if I can.  
19 Please?---MPs who may for whatever reason have a potential  
20 interest in it. They may be a parliamentary secretary  
21 whose responsibility overlaps in the area and quite often  
22 issues aren't confined to just purely one portfolio. The  
23 engagement I have at council level is very small, it's  
24 probably five per cent, give or take, of the proportion of  
25 work. Sorry, you mentioned bureaucrats as well.  
26 Occasionally we're directed to bureaucrats from the  
27 ministerial officers, say, 'Go and see the manager of this  
28 section. They should be able to or they will give you a  
29 hearing,' and then report back to the minister. But it

1 would be - the way I operate it would be very rare that  
2 I would initiate contact with a public servant. It would  
3 only be at the direction of a ministerial office or if  
4 there was a pre-existing relationship between the client  
5 and the bureaucrat. I tend to exclude myself from a lot  
6 of those meetings because I think there are bureaucrats  
7 who find the role of a lobbyist more appropriately  
8 directed at the ministerial level. Having said that, when  
9 I have attended meetings I'm required to declare that I'm  
10 on the lobbyists' register and the client that I'm  
11 representing is on the register as a client of mine, and  
12 observe the meeting protocols from there.

13 So, going back then, you were with the Clifton Group for some  
14 time?---For a couple of years and then - - -

15 What time are we talking about now?---That would have been 99  
16 to 02.

17 Yes?---And then I joined a firm called Haystac Public Affairs.

18 Yes?---And I was actually a subcontractor there, but would  
19 operate under their umbrella and some of their clients  
20 required - so they were essentially the communications  
21 agency. I would offer specialist government relations  
22 expertise if and when required, but I would also operate  
23 my own book of clients as well.

24 Yes, and then after that?---And then after that it was -

25 I think 2007 I took on a business partner and we  
26 established an entity called InsideOut Strategic and that  
27 was the first time we took on - I took on paid staff.

28 That operated until I think 2011, maybe 2012. That entity  
29 was wound up - - -

1 Who was your partner?---Steve Cusworth.  
2 And was he somebody who was on the Labor side or  
3 elsewhere?---Yes, he was.  
4 So that was basically seen as a Labor firm?---Yes, although he  
5 was - he certainly wanted to steer the firm into a role  
6 that was much broader than government relations. It was  
7 more communications driven advice and policy formulation  
8 advice to organisations in particular.  
9 Then from 2011/2012?---I've set up my own - the entity that's  
10 there now, Staindl Strategic, and I've had from time to  
11 time a part-time administrative support, but up until  
12 December of last year.  
13 And where did that operate from?---A couple of locations, but  
14 within the CBD.  
15 Can you give me the addresses?---Yes. Level 11, 530 Little  
16 Collins Street.  
17 Yes?---460 Bourke Street. Sorry, 460 Bourke Street was  
18 InsideOut Strategic. Sorry about that. Then 620 Bourke  
19 Street.  
20 At some stage you had a business involvement or association  
21 with Geoff Leigh; is that right?---Correct.  
22 When did that start?---I think it was around 2005, 2006. It  
23 was called All Weather Solutions and it was just a - it  
24 was a business name registered through the department of  
25 fair trading which created, for want of a better term, an  
26 umbrella between our two individual business entities and  
27 it was purpose built. We probably had four or five  
28 clients over a period of years in that time, up until  
29 about 2012, 2013, I think.

1 Did you continue to work together after 2013?---We may have  
2 had - sorry, we have had one or two small, relatively  
3 small jobs.

4 Yes?---But for various reasons our business interests went in  
5 different directions. I think there's only been the one  
6 client since 2013.

7 COMMISSIONER: Mr Staindl, could you just indicate, other than  
8 planning, what other areas were you as a lobbyist able to  
9 provide clients with assistance?---A broad range, because  
10 the principal skill set I bring is an understanding of  
11 government and how it operates and how best for the client  
12 to represent their case. I've had clients in the  
13 resources sector, the waste management sector. For a  
14 period I even did work for the Law Institute of Victoria.  
15 I've had some in the education sector. I'm trying to  
16 think where else. Look, I've had an amazingly diverse  
17 array of clients.

18 Yes?---Sorry, I know; the other big sector I got involved in  
19 was the renewable energy sector. I did a lot of work and  
20 had one or two major clients there for an extended period  
21 of time. I've also done some in the public transport and  
22 transport construction sector as well.

23 So would it be fair to say, Mr Staindl, that for a long time  
24 now lobbyists have had a role in most spheres of  
25 government activity?---Yes, I think so. Yes.

26 I ask that question because it may well be at the conclusion of  
27 this investigation that the Commission may wish to make  
28 some recommendations about the level of control that  
29 currently is exercised in relation to lobbyists. But we

1 can take it that the lobbyists' role crossed the spectrum  
2 of government activity?---Yes, you could.

3 Thank you.

4 MR TOVEY: When you were working with Geoff Leigh, was John  
5 Woodman one of your clients?---Yes, as I think I've  
6 explained to you previously, and it was a major project  
7 that brought us together, we did some work for Watsons on  
8 a rezoning application in Cranbourne called Brompton  
9 Lodge, and that commenced in about 2005 or 2006.

10 And was that successfully concluded?---Yes, it was.

11 When was that?---2012.

12 And that was a rezoning?---Yes, it was.

13 And was that a lucrative contract for you?---It was, but a high  
14 risk one, because it was purely on a success fee basis and  
15 there was every chance that the rezoning would not be  
16 granted, but at the end of the day it was. So - - -

17 What was your fee?---So my portion of the success fee was  
18 \$500,000, which if you amortise that over the six and a  
19 half years we worked on it would be the equivalent of a  
20 monthly retainer of around \$6,000 a month.

21 And you mentioned 'my portion' of the success fee. What was  
22 the total success fee?---Well, Geoff Leigh got the other  
23 half of that.

24 COMMISSIONER: So it was a \$1 million success fee?---Yes.

25 MR TOVEY: It sounds like a heck of a lot of money, doesn't it?  
26 Was that typical of the sorts of payments that were  
27 available to lobbyists in respect of rezonings at that  
28 period?---No, that was probably atypical and it was the  
29 only rezoning I worked on.

1 COMMISSIONER: How common, Mr Staindl, are success fees in the  
2 lobbyists' industry?---Well, since mid-way through 2014  
3 they've been - it's prohibited for lobbyists to receive  
4 success fees.

5 Until 2014?---I think very uncommon. But then I'm not privy to  
6 other firms, so I don't know what financial arrangements  
7 they had.

8 Is there a standard way now in which a lobbyist's remuneration  
9 is calculated?---No. I think the pricing differential  
10 would - it just varies firm to firm. My fee structure  
11 would be - - -

12 So, just to hypothesise - - -?---Sorry?

13 I'm sorry, I was going to say is there anything, for example,  
14 that would prohibit a contractual structure in which the  
15 remuneration increased as one approached the end  
16 result?---Certainly not in my experience.

17 Yes, Mr Tovey.

18 MR TOVEY: At the time that the restraint on success fees came  
19 in, did you have any ongoing arrangements with Mr Woodman  
20 or anybody else involving success fees which then had to  
21 be rearranged?---I had a success fee proposal - agreement  
22 with Mr Woodman in relation to Cranbourne West and that  
23 was made shortly before I think the introduction of  
24 the prohibition occurred.

25 Yes?---It didn't cancel that at the time. I decided to wait  
26 until the end of the year because I knew that there  
27 was - the rezoning matter was a long way off and I decided  
28 to wait to see if there was a change of government at the  
29 end of 2014 as to whether or not there would be a change

1 in that policy. By mid-way through 2015 it became obvious  
2 that there wasn't going to be a change and I knew then  
3 that I had to end that success fee arrangement. The  
4 decision was effectively made for me very shortly after  
5 that because the success fee was for a rezoning of that  
6 whole site, including land known as the Kelly land, and  
7 that was excluded I think in around August 2015, and so  
8 that in my mind put an end to that success fee arrangement  
9 and I think I made some brief comment to Mr Woodman about  
10 that.

11 How much was that fee?---Sorry?

12 How much was the fee?---It was \$250,000.

13 Right?---There was an occurrence some years later where

14 I became aware that Mr Woodman thought that he was still  
15 obligated or that success fee arrangement still held.

16 I had a brief discussion with him in person saying that  
17 because it's prohibited for lobbyists to receive success  
18 fee payments, I would not be pursuing that in the event  
19 that the rezoning occurred. I think he was surprised at  
20 that and I just said - I closed down the discussion.

21 I said it was my responsibility and ended the matter  
22 there.

23 Are you aware that there is a - I'll take you to this later on,  
24 but I don't want to spend much time on it now - but you're  
25 aware that there was a tape recorded discussion between  
26 you and Mr Woodman wherein the success fee was discussed -  
27 - -?---I am.

28 Wherein there was discussion about both his and your fees being  
29 held in trust by Maddocks?---No, I'm not.

1 No?---Sorry, I remember a phone discussion where I asked  
2 Mr Woodman if - if a success fee was still there and he  
3 said 'Yes', and I remember thinking 'Oh'. My stomach sank  
4 because I thought, 'I've got to end that,' and I met with  
5 him I think a month or so after that and said, 'I cannot  
6 accept the success fee.'

7 When was that, from your recollection?---I'm not clear on  
8 dates. I think maybe 2018, but I'm not certain. If  
9 there's other evidence, then, I don't know, maybe - - -  
10 You're aware, no doubt, from what you've already observed and  
11 what you've seen by way of preparation, that there are  
12 hundreds and hundreds of pages of documents, being  
13 transcripts of phone calls or other communications between  
14 yourself and Mr Woodman and other associates which form  
15 part of the background of this investigation?---Yes.  
16 Look, I'm not trying to deceive you. What I know is, and  
17 maybe I came to the point later on, but I think it was  
18 2018 I had reached a point where I knew I would not be  
19 able to accept the success fee.

20 Yes?---So there was an earlier discussion. Perhaps I wasn't as  
21 mindful of it then, but I'm at a loss, though, so - - -  
22 I'm just informed that the call that I was referring to was in  
23 March 2019?---You're kidding me?

24 Anyway, perhaps you can reflect on that and we'll come back to  
25 it and I'll take you to the call in due course. Are you  
26 happy to do that? We can come back to that tomorrow?

27 COMMISSIONER: Mr Staindl, I note the time. You've been going  
28 for an hour. How are you feeling? Are you happy to  
29 continue at the moment or would you like a break?---Look,

1 I might take a short break on that because that's  
2 surprised me, that. It really has been (indistinct).  
3 MR TOVEY: Don't worry about it for the moment,  
4 Mr Staindl?---Yes.  
5 We'll take you to the call at some stage and that will give you  
6 the opportunity of refreshing your memory?---Yes.  
7 And that might trigger the synapses to give you the explanation  
8 that you're grasping to retrieve?---M-hmm.  
9 All right? So we have Brompton Lodge, C219. Now, C219 was a  
10 project which was still going right up until the time the  
11 IBAC investigation commenced, wasn't it?---C219 being  
12 Cranbourne West?  
13 Being Cranbourne West, yes?---In my mind not really, because in  
14 my mind by November 2018 it was all over. That's in a  
15 political context.  
16 Yes. So by November 2018 The Age article had been  
17 published?---Yes.  
18 Suggesting that there was a corrupt relationship or suggesting  
19 amongst other things that there was a corrupt relationship  
20 between Woodman interests and people on Casey Council  
21 ?---Was that November 2018?  
22 That was October 2018 and again in November?---November, yes.  
23 I think by the time the November article appeared,  
24 I thought it was dead and buried then.  
25 And I think it was on 16 October 2018 that the minister  
26 announced a deferral?---Yes.  
27 And is it the case that what happened then was you came to the  
28 view that the minister had taken the view to defer the  
29 matter because it was clear that the allegations that were

1 being made about Woodman and the council made it  
2 politically impossible at that stage to continue on with  
3 the C219 amendment approval?---Sorry, could you repeat  
4 that question?

5 Yes. At that stage, that is at the time it was deferred, you  
6 were aware, were you not, that The Age were digging  
7 about?---Yes.

8 And was it your theory and Mr Woodman's theory at the time that  
9 the reason it was being deferred was because of the  
10 scandal that was caused by The Age article?---Yes, I think  
11 because it was close to the election and I think it was  
12 just a, what we term a political hot potato.

13 Yes?---But I actually thought that was the end of it. I didn't  
14 think it would proceed after that, the second article.

15 Were you involved with Dacland at all? Did they engage your  
16 services or in any way contact you to assist them after  
17 they took over the project in early 2019?---No.

18 All right. So you've got Brompton Lodge, got C219. What other  
19 Woodman projects? There was the H3 intersection which  
20 we've been looking at. I think you've previously told us  
21 you had some small involvement in that, but not  
22 great?---Miniscule, I think, yes. There's been different  
23 projects. There's requests for rezoning out in Mickleham  
24 Road, which a number of developers came together on.  
25 There has been a quarry site interface at Donnybrook.  
26 I had the list written down somewhere but I haven't got it  
27 with me now. Look, over the years there's been quite -  
28 quite a number - - -

29 Yes?---That your investigators would have had access to all of

1           that information amongst - - -  
2 I just want to take you through at this stage without going  
3           into any detail?---Yes, I may not remember all of them.  
4 Yes. Between 2013 and 2015 there was the Stotts Lane area at  
5           Frankston South being rezoned?---Yes.  
6 There were a couple of Wyndham Council projects. There was  
7           Aviators Field at Point Cook?---That's right, yes.  
8 Saratoga Estate?---I remember Saratoga, but where is it?  
9 There was an area called - sorry, there was a rezoning relating  
10          to what was called area 215 in the Greenvale-Hume  
11          area?---Yes.  
12 And then there was Whittlesea Council projects, Donnybrook and  
13          Shenstone Park?---Yes.  
14 All right. I'll take you to 2018. The period 2016, say, to  
15          2018, was Mr Woodman a major client of yours?---No. One  
16          of about eight to 10. I charged a monthly retainer of  
17          \$3,000.  
18 And was everybody charged the same?---Sorry?  
19 Was everybody charged the same?---Of my clients?  
20 Yes?---No. That was the lower end of the scale.  
21 But Mr Woodman was also being billed, was he, on an hourly rate  
22          for work you did?---No, it was just a monthly retainer.  
23 All right. Was Mr Woodman your major client during that period  
24          of time?---No, far from it.  
25 Did you have other clients who were developers?---Yes. Two,  
26          probably, if you're talking 2018.  
27 Yes, 2016 through to 2018?---Look, I may - - -  
28 You tell me if that's unfair. I'm happy to confine it to  
29          2018?---There are some times I would have a development

1 client for maybe two or three months that could be in that  
2 period, but in terms of ongoing retainers I had two other  
3 planning clients on a long-term basis. There would have  
4 been a number of short-term ones in that period.

5 Now, when I speak about Mr Woodman, I know from time to time  
6 that you were retained not by him but by Wolfdene, which  
7 was an associated company with Watsons. Have you included  
8 that within the calculations we've been discussing  
9 about?---Yes. Yes, I only ever billed Watsons, and the  
10 work could have been for Wolfdene or whatever, Wolfdene or  
11 Watsons.

12 Did you work with Elysian Estate?---No.

13 COMMISSIONER: You treated Wolfdene and Mr Woodman as  
14 synonymous for these purposes?---Yes, I did.

15 MR TOVEY: Did you also deal regularly directly with Heath  
16 Woodman?---Yes.

17 In that period of time?---In fact from 2016 Heath became the  
18 principal point of contact.

19 Yes. Now, before we just take an afternoon break, you've  
20 referred to the Victorian Government Professional Lobbyist  
21 Code of Conduct; is that right?---Yes, yes.

22 Could we please have up court book page 295 and following.

23 COMMISSIONER: Are you able to see that, Mr Staindl?---Only  
24 down to 1.4.

25 Yes, but you can see it, yes. Is that the Victorian Government  
26 professional lobbyists code of conduct that during the  
27 period you've been speaking about since 2013 applied to  
28 lobbyists?---Yes.

29 And is that still the code that's in place?---To the best of my

1 knowledge, yes.

2 MR TOVEY: Could you just excuse me, Mr Commissioner. We're  
3 having trouble getting it up on the screen. We have it  
4 now. Mr Staindl, if you look at paragraph 1.2. Perhaps  
5 we'll go to the preamble, 1.1, 'Free and open access to  
6 the institution of government is a vital element of our  
7 democracy.' Is that what it provides for? You can see  
8 that there?---Yes.

9 Then the next paragraph indicates how lobbyists can enhance the  
10 strength of our democracy by assisting the interface  
11 between individuals and government?---Yes.

12 And then 1.3, 'In performing this role, lobbyists and  
13 government affairs directors have a duty to act ethically,  
14 transparently, according to the highest standards of  
15 professional conduct and in accordance with probity  
16 requirements.' Do you see that?---Yes, I see it.

17 What does 'transparently' mean? Does 'transparently' mean in a  
18 way which is readily able to be seen and understood by  
19 citizens?---I don't know. I've never - in this context,  
20 whether it's citizens or whether it's - I would have  
21 thought it applies to your dealings with government  
22 officers, that you be transparent in your dealings with  
23 them.

24 So you didn't see then that the way in which lobbyists operated  
25 should be subject to provisions for transparency insofar  
26 as there needed to be an understanding of their behaviours  
27 by citizens in a democracy?---Can you repeat that, please?  
28 Yes. Insofar as you saw there the requirement of transparency,  
29 you saw that as only requiring those people in government

1           who you were dealing with to know where you were coming  
2           from, but it didn't from your perspective involve the  
3           right of citizens to know what was going on between  
4           government and lobbyists?---I think that's a matter for  
5           government as to how they disseminate the decision-making  
6           processes.

7   COMMISSIONER:  No, I think - - -?---I feel what you're asking  
8           me, you're almost asking me to interpret a broad-ranging  
9           definition of that particular clause, and I'm not sure  
10           that I'm in a position to do that.

11  MR TOVEY:  I'm not asking for your interpretation of  
12           the clause.  I'm sorry, Mr Commissioner, I'll stand by.

13  COMMISSIONER:  Yes, Counsel Assisting is really directing you  
14           to your understanding of the extent of the code.  What  
15           he's putting to you is if you saw the requirement of  
16           transparency as being one which related to your conduct  
17           vis-à-vis the government and being transparent with  
18           government, if that's the extent of transparency, then it  
19           seems that there's nothing in the code at all which  
20           requires transparency to the Victorian public?---I'm still  
21           not sure, you know, if on behalf of a client you're  
22           suggesting that all dealings with government should be  
23           able to be accessed by the public, the broader public.

24  At this stage what we're asking, Mr Staindl, is whether or not  
25           you understood that there was anything in the code that  
26           required that the representations, the conduct of  
27           the lobbyist in dealing with government should be  
28           transparent to the Victorian public.  Are we right in  
29           understanding that the code creates no obligations in that

1 regard, either on the lobbyist or on  
2 government?---Correct. Governments by their very  
3 definition have to answer to the public one way or the  
4 other and therefore they would have to explain how they've  
5 arrived at a decision and what the benefits or otherwise  
6 are of dealing with maybe a particular industry or a  
7 particular company on any given issue.

8 Could I just suggest this: there's a fundamental distinction,  
9 is there not, between government explaining why a  
10 particular decision is sound or warrants merit and  
11 revealing to the public what representations or, using the  
12 terminology of the code, what lobbying activity, which is  
13 defined as meaning efforts to influence, what level of  
14 lobbying has taken place. It's not your experience, is  
15 it, that governments of either political persuasion reveal  
16 to the public what lobbying activity has been engaged  
17 in?---It happens through a lot of public discourse.  
18 Perhaps not the role of the lobbyist, but they will talk  
19 about - government will talk about arguments for and  
20 against of particular propositions. It 's not as if you  
21 then have to articulate every role of a third party  
22 consultant, whether it be financial adviser, a planning  
23 adviser or a government relations adviser. In instances  
24 where there is a degree of controversy, governments  
25 invariably do explain themselves to the public as to how  
26 they've arrived at that decision, maybe to varying  
27 degrees.

28 Yes?---But I think there is an innate understanding of what has  
29 led up to a decision by a government, and as a lobbyist on

1           behalf of a client we are but one of multiple points of  
2           input into that public policy process.

3   Yes?---I hope - I'm not sure if that's what you're looking for  
4           - - -

5   Well, no, no, you say that part of the public debate about a  
6           decision which is to be made will usually reveal some  
7           level of the way in which government has been informed;  
8           you think that?---Yes, I do.   Yes.

9   Yes, Mr Tovey.

10   MR TOVEY:   Thank you.   As a lobbyist, part of your function is  
11           to assist people to find their way through the sometimes  
12           difficult to understand pathways of decision making in  
13           government; is that right?---Correct.

14   And another aspect is to seek to be able to provide access to  
15           decision makers to your clients?---Yes, or certainly guide  
16           them in finding access, yes.

17   And a man like Mr Woodman, it's very, very clear, isn't it,  
18           that what he wants is access?---That's one of the things,  
19           yes.

20   And so the question becomes, well, when you have access  
21           combined with huge political contributions, how one  
22           interacts with the other.   This is just as a matter of  
23           obvious theory true?---Yes, yes.

24   And it's important, is it not, to ensure that we have a system  
25           where there is not undue or disproportionate or privileged  
26           access to individuals who have a lot of money and are able  
27           to pay?---Well, it's always been a vexed issue, political  
28           fundraising.   It's certainly provided opportunities to  
29           have donors get into the room to be able to put their

1 case, but it certainly wasn't a precursor to delivering an  
2 outcome. But picking up on your concerns, I think that's  
3 why the government enacted substantial amendments to the  
4 Donor Legislation Act in 2018 and the scenario that you're  
5 painting that perhaps existed prior to November 2018 is  
6 now no longer possible at the state level.

7 And why is that?---Because there was major reforms of the  
8 political donation legislation which now restricts the  
9 total donations of any entity to \$1,000 per annum and  
10 that's within one political party. No matter how many  
11 different entities are donated to, they are only allowed  
12 to donate \$1,000 in total to all of those entities. So  
13 the concerns you're - - -

14 And now there's real-time - - -?---Have been addressed.  
15 - - - reporting, is there not, or close to real-time reporting  
16 of donations?---I'm not sure on that aspect of it, but  
17 that's largely irrelevant now because you can't give big  
18 donations. And the other factor which you may not be  
19 aware of is that for every dollar that is given in  
20 corporate or private fundraising, that is deducted from  
21 the amount of public funding that that political party is  
22 entitled to.

23 Yes. So, concentrating on the period with which we're  
24 concerned and at the time when Mr Woodman was seeking to  
25 have his projects approved, whether they be permits or  
26 whether they be rezonings, it was a different regime which  
27 applied, was it not?---Well, political fundraising was in  
28 part a necessary evil and, yes, that occurred. It's then  
29 up to the ministers to take advice on whatever decision is

1 being reached from as many sources as they feel  
2 appropriate.

3 If I could ask you just, before we break, to have a look at  
4 paragraph 8(d) of the code?---Is someone going to scroll  
5 it or do I scroll it?

6 No, it's being scrolled, I hope.

7 COMMISSIONER: Yes, there it is.

8 MR TOVEY: Paragraph 8.1(d). There you go. Your duty then was  
9 to 'keep strictly private'[sic] - this is the duty of  
10 lobbyists, 'keep strictly private[sic] from their duties  
11 and activities as lobbyists any personal activity or  
12 involvement on behalf of a political party'; is that  
13 right?---Yes.

14 Would you agree that, given the nature of lobbying at that time  
15 and particularly the type of lobbying that's associated  
16 with you, for instance, with membership of Progressive  
17 Business, that was a virtual impossibility?---Well, I've  
18 never been on the board of Progressive Business since this  
19 code was implemented and in fact part of the reason  
20 I resigned the chairmanship of the board of Progressive  
21 Business back in 2010 was because of the risk of  
22 the perception that there could be a potential for  
23 conflict. Since 2010 I've had no role in any - formal  
24 role in any party committee or policy organisation.

25 However, Mr Woodman was introduced to Progressive Business by  
26 you?---No, he wasn't. But Progressive Business itself,  
27 it's a membership organisation, so I think as a member  
28 I don't think there's any problem at all. In fact, it  
29 offers some very vital or did offer some very vital, how

1 shall I say it, sanitised way of political fundraising  
2 because it was very - far more regulated. It was subject  
3 to ATO requirements and AEC and VEC requirements. So, the  
4 membership would be maybe anywhere from four to 600  
5 members.

6 If we just stop it there, Progressive Business's political  
7 fundraising you've just said - - -?---And the matter of  
8 the business dialogue, dialogue between business and  
9 government.

10 However, it's a dialogue which takes place in the context of  
11 political fundraising, doesn't it?---Some of them. There  
12 are free events as well for members, so it depends  
13 what - - -

14 All members contribute?---Well, some contribute just a basic  
15 membership and then choose which functions they go to, and  
16 there are events and forums which - - -

17 Let's not be cute about it, Mr Staindl?---I'm not being cute,  
18 sorry.

19 All members are making contributions, are they not, to a  
20 political party by being members; is that true?---Well, an  
21 individual membership was \$200 or thereabouts per annum,  
22 I think.

23 Mr Woodman, though, was not - - -?---No, he was a platinum  
24 member. There's no secret about that.

25 All right. So if we just confine ourselves then to Mr Woodman,  
26 Mr Woodman paid in 2018 I think close to \$90,000, didn't  
27 he, to Progressive Business?---I don't know the quantum,  
28 but - - -

29 But you were organising it, weren't you, and discussing it with

1           him?---Sorry?

2   Were you not organising this and discussing it with him, his  
3           contributions? That's the evidence we've heard so  
4           far?---Yes, look, I (indistinct) membership of Progressive  
5           Business, but I don't know what quantum he actually paid.  
6   All right?---I think the platinum membership level was around  
7           \$60,000. He may have paid additional to that. I don't  
8           know.

9   Whether it's 60 or 90, you're missing the point, though. The  
10          point I'm making to you is that his access was very, very  
11          significantly facilitated by fundraising?---I'd agree with  
12          that, yes.

13   And if that's the case, it cannot be, can it, that you as the  
14          person who was facilitating that are keeping strictly  
15          separate your duties as a lobbyist and a fundraiser?---I'm  
16          not sure that I agree with your interpretation - I'm just  
17          re-reading the thing - because I had ceased to be working  
18          on behalf of the political party from 2010, even in a  
19          voluntary capacity. So I am there as part of Mr Woodman's  
20          membership entitlement in that I would attend with him  
21          because he was allowed two or three members - two or three  
22          nominees to attend particular events.

23   But you're involved on behalf of a political party, aren't  
24          you - - -?---No, no.

25   In facilitating his interface with Progressive Business? If  
26          you don't agree with that, just say so?---No, I don't.

27   What about in organising contributions to individual  
28          candidates?---Yes.

29   Is that being involved on behalf of a political party or is

1           there some way in which that could be described as  
2           something else?---I don't think I'm being involved in a  
3           formal sense with the political party. Yes, I'm doing it  
4           as a Labor supporter and I'm going to be strategic in  
5           where I recommend funds are directed to. But I have no  
6           formal party role in that, and I think that's where the  
7           difference in interpretation is.

8   COMMISSIONER: Do you mean by that, Mr Staindl, that if you  
9           weren't engaged by the political party to perform some act  
10          then you are not acting on behalf of the political party,  
11          albeit that things that you're doing would benefit the  
12          political party? Are you making that  
13          distinction?---I think I am.

14       Do you want me to repeat what I've - - -?---No, I think that's  
15          accurate. If I was still on the board of Progressive  
16          Business or president, then I think you're point is a  
17          valid one. But I am just a member of Progressive Business  
18          or a Labor Party supporter.

19       So that's why you stepped down from being on the committee, so  
20          that - - -?---Yes.

21       So that you would not get caught by such a provision?---Yes.

22       But - - - ?---Sorry, I stepped down before these provisions  
23          were prepared, but I could see the potential.

24       Yes. But just looking at the purpose or spirit of this code,  
25          assuming you're right that that's a distinction you can  
26          make, that is the distinction between doing an act which  
27          is formally on behalf of a party and doing an act which,  
28          whilst not on behalf of the party, benefits the party, do  
29          you think that fell within the spirit of this code; that

1 you could take a client, an important client, have the  
2 client make significant political donations to Progressive  
3 Business, have the client make significant electoral  
4 donations to individual members of parliament, and  
5 nonetheless not be infringing the requirement that you  
6 keep your lobbying activities separate from  
7 political?---I do make that distinction, yes, in the end.

8 Assuming for present purposes - - -?---And perhaps that's why  
9 the government has gone down the path - sorry; continue,  
10 Commissioner, sorry.

11 That's all right. Assuming for present - yes, Mr Staindl,  
12 assuming for present purposes that 8.1(d) allows that  
13 distinction, do you think it's a good distinction to have;  
14 that it's okay for a lobbyist to encourage their client to  
15 make political contributions for the purpose of advancing  
16 the interests they want to pursue?---I'll answer that by  
17 saying perhaps the government recognised there were  
18 emerging potential conflicts there and hence made the  
19 legislative changes that they did in November 2018.

20 I'm really interested as someone who is a very experienced  
21 lobbyist and also someone who's been very active in  
22 politics for a long time, I'm interested in your comment.  
23 What one can make of the amendments to the legislation in  
24 2018 is another matter. But do you think - looking at the  
25 lobbying industry, do you think it's a good thing that  
26 lobbyists could do what I've suggested, namely encourage  
27 important clients to make political donations in order to  
28 advance their interest?---The part of the clause I have  
29 difficulty with is 'in order to advance their interests'.

1 People donate for a wide range of different reasons. They  
2 could be just Labor Party supporters; for whatever reason  
3 they wanted to see the government of the day supported and  
4 returned; or some may use it to curry favour, to get into  
5 the room to be able to have a discussion. The role a  
6 lobbyist plays, I daresay, comes down to the lobbyist and  
7 how they interpret that and how they act. I can't speak  
8 on behalf of the lobbyist profession. I felt I was able  
9 to manage that area reasonably well. But it may be open  
10 to other suggestions. I don't know. But you've certainly  
11 provided food for thought anyway.

12 Yes. Mr Tovey, I see the time. I think we might sit on for  
13 another 10 minutes and then adjourn.

14 MR TOVEY: Thank you, Mr Commissioner; I was about to raise  
15 exactly that.

16 COMMISSIONER: Yes.

17 MR TOVEY: Could I please tender, Mr Commissioner, the  
18 professional lobbyist code of conduct.

19 COMMISSIONER: Yes.

20 MR TOVEY: Could we record on the description 'court book  
21 0295'? It's just that we've realised going back to  
22 prepare things it's easier if that's included in the  
23 exhibit description.

24 COMMISSIONER: Very good. I'll make exhibit 204 the bundle of  
25 documents that were served on Mr Staindl for attendance at  
26 this hearing, and exhibit 205, court book page 295, will  
27 be the lobbyist code of conduct.

28 MR TOVEY: 295 to 302, Mr Commissioner.

29 #EXHIBIT 204 - Bundle of documents served on Mr Staindl for

1 attendance.

2 #EXHIBIT 205 - Lobbyist code of conduct, pages 295 to 302.

3 MR TOVEY: While we're on the subject of Progressive Business,  
4 going back to 2018, of course 2018 was an election  
5 year?---Yes.

6 So that was the last of what you'd see to be the Halcyon  
7 fundraising years?---It may well go down in the annals of  
8 history as that, yes.

9 So at that time Progressive Business maintained a number of  
10 opportunities for its members to become involved with  
11 particularly senior politicians?---Become involved or to  
12 meet with the ministers, yes.

13 In a very neutral sense?---Yes.

14 And were there levels of membership in 2018?---There were.

15 I can't remember how many there may have been; four or  
16 five. You know, I can't tell you off the top of my head,  
17 and I'm no longer a member of Progressive Business.

18 I haven't got access to the - - -

19 Would I be wrong in concluding that Mr Woodman was a member of  
20 the highest level?---I'm pretty sure he was. The platinum  
21 member I think it was, yes.

22 Do you recall whether there was a document which was provided  
23 to Mr Woodman in 2018 through you - I think it was Fleur  
24 Morales of Progressive Business suggesting that he sign up  
25 as a platinum member for the next 12 months for  
26 \$200,000?---I don't remember the figure, but - and I don't  
27 remember doing that off the top of my head. But it's  
28 possible that I did, yes.

29 What I was suggesting was that it was being put to him at that

1 stage, was that he could - that would be an all-in figure  
2 which didn't involve him having to pay extra on payments  
3 for particular meets and greets and those sorts of things.  
4 Does that sound at least logical - - -?---It sounds  
5 plausible, yes.

6 In any event, our calculations would indicate that he during  
7 that period, that is during the 2018 election year, paid  
8 something in the vicinity of \$90,000 to or through  
9 Progressive Business. Would that fit generally within  
10 your understanding of the level of his  
11 involvement?---Probably, yes.

12 So can you tell us then what it was, at what levels there  
13 existed opportunities to have access to politicians  
14 through Progressive Business? Were there different  
15 standards of functions, for instance? I mean, we hear  
16 about boardroom lunches. We hear about Premier and  
17 Cabinet dinners. We hear about personal lunches. We hear  
18 about forums. We hear about workshops. Are all of those  
19 part of a structure of payment and entitlement?---Yes,  
20 I think they would be. So as a platinum member you would  
21 probably get access to all of those, whereas maybe at a  
22 lower level member you would get access to different  
23 levels.

24 So, if we then go through the different levels, you have  
25 workshops. Is that a term of art? Is there something  
26 special about workshops? Do they connote some particular  
27 type of activity within Progressive Business?---What that  
28 entailed was a minister would speak to a group of people  
29 in a room about their policy area and some of their key

1 achievements or government initiatives occurring at that  
2 time. There would usually be the opportunity for some  
3 interactive dialogue between those present and the  
4 minister, and that would be - those workshops would tend  
5 to go for about an hour or so.

6 And would those give the opportunity for one-on-one contact  
7 between attendees and ministers?---Not with the workshop,  
8 no.

9 All right. Now, what about forums or fora?---There was a  
10 structure whereby you could attend the forum and get the  
11 opportunity to, say, meet with about four ministers for a  
12 15-minute period. I have never been to one of these  
13 events but it's been described as speed dating. Sorry,  
14 I've never been to a speed dating event. So you go in and  
15 - straight into a minister with their adviser. You will  
16 have given advanced notice of the issue or issues that  
17 you're raising, and - - -

18 So we're talking about advanced notice. So this gives you the  
19 opportunity to brief a minister on some specific proposal  
20 in which you have an interest?---Yes.

21 So if you are a property developer and you're after a permit,  
22 for instance, there was no restriction on you being able  
23 to put submissions to the minister man on man with an  
24 adviser present - - -?---Yes, there are because they're  
25 the types of events the Minister for Planning would not  
26 participate in.

27 What if you're not the Minister for Planning, though?---Well,  
28 there would be very few - the Minister for Planning has  
29 separate statutory powers. It's unlike any other minister

1 and - - -

2 If I could just stop you there. I'll take you to that and  
3 we're all conscious of the fact that he has a very special  
4 discretion to administer, and he behaved in a particular  
5 way in respect of those who were wanting to make  
6 submissions. But John Woodman and Megan Schutz and  
7 Tom Kenessey, they didn't - they were people whose  
8 interests were in the area of development, weren't  
9 they?---Yes.

10 And very often in the interests of rezoning?---Yes.

11 Did they have any other interests that you were aware  
12 of?---Development may spill over into other areas.

13 Such as?---Such as roads and, you know, there could be broader  
14 transport issues or there could be education issues to do  
15 with the siting of a school in a proposed development or  
16 whatever. So, from time to time, those types of issues  
17 would arise, yes.

18 And in those cases we'll see from time to time that when  
19 Mr Donnellan was roads minister they took the opportunity  
20 of canvassing issues with him?---Yes, at one of those  
21 foras, forums?

22 Are you aware of - just don't agree with stuff because I say  
23 it. Do you have a recollection of - - -?---I am aware of  
24 one particular meeting with Minister Donnellan because it  
25 didn't end at all well.

26 Yes. There were numerous occasions where there had been  
27 contact either through Progressive Business or otherwise  
28 adverted to in relation to the Treasurer, Mr Pallas. Are  
29 you aware of that?---Certainly aware of some contact, but

1 not all.

2 And why would a developer be needing to contact the Treasurer?

3 Did the Treasurer have any development role?---Not  
4 directly. It's probably more broadly to do with the  
5 economic development and generating economic activity in  
6 the state.

7 But rezoning, did you see that as something which would be  
8 particularly within the purview of a Treasurer who was  
9 wanting to see economic activity?---There's no reason why  
10 not because it would have generated or stimulated quite a  
11 level of housing activity, yes.

12 What about Mr Merlino, the Deputy Premier? Were you aware of  
13 any contact - - -?---Very - far more limited, unless there  
14 was a particular school issue to do with that estate, and  
15 I can't remember if there was or not. But it wouldn't be  
16 directly impinging on his portfolio responsibilities.

17 Can you see any possibility that it might ever have been the  
18 case that Mr Woodman would have sought to use a senior  
19 politician, even very, very senior politicians, in an  
20 attempt to influence the planning minister?---I'm not  
21 aware of any overt areas like that, no.

22 COMMISSIONER: Mr Staindl, just to reflect on that last answer,  
23 though, as you've said a few moments ago, the planning  
24 minister has quite unique powers in relation to planning  
25 issues. Those other members of parliament, including  
26 senior ministers, have no powers in that regard; it's the  
27 sole province of the Minister for Planning, is it  
28 not?---Correct, yes.

29 So what's the lobbyist's perspective in seeking to recruit the

1 support of other senior ministers on an issue on which the  
2 planning minister must make the decision?---(Indistinct)  
3 the client, I would argue that there is merit in having  
4 government members more broadly aware of what you're doing  
5 in a particular region because of the then flow-on  
6 effects, particularly if they are positive, would have in  
7 that region in terms of generating jobs and what impact  
8 it's going to have in terms of the need for transport  
9 infrastructure, education infrastructure, health and a  
10 whole myriad of issues. So the actual statutory powers  
11 may be with the Minister for Planning, but there's far  
12 broader implications for government across the board with  
13 a development of that sort of size. So there's merit in  
14 dealing with other ministers, in at least briefing them as  
15 to what your plans are.

16 But that must surely mean that you accept that in that context  
17 it would be appropriate for other ministers to convey  
18 their views to the planning minister for the purpose of  
19 the ultimate decision?---I look at it a little  
20 differently. It's not as if they just bump into the  
21 planning minister and say, 'Hey, this is happening here.'  
22 It would then - because the Minister for Planning in  
23 making a determination like that on such a large scale  
24 rezoning is going to have an interagency or an  
25 interdepartmental committee, where sources of advice will  
26 come from a myriad range of government departments and  
27 agencies, and hence those departments will formulate their  
28 views based on what they understand their own ministers'  
29 position is. So in determining what - let's say the

1 transport component of that, then those transport  
2 officials will liaise with their minister as to what  
3 direction they should take if it's elevated to that level.  
4 And so there will often be tensions and conflicts between  
5 government departments and agencies. And so I don't think  
6 it's unreasonable to expect that a proponent for a  
7 significant development should speak to people across  
8 government whose departments are going to be providing  
9 input or opinion on a particular development or project.

10 Yes, I don't wish to be suggesting that it's necessarily  
11 inappropriate for a lobbyist and their client to seek to  
12 influence either other ministers than the planning  
13 minister or, the way you've described it, have other  
14 ministers influence their departmental officers to put  
15 forward proposals which in turn might influence the  
16 Minister for Planning's department, who in turn might then  
17 seek to influence the minister. The question that really  
18 lies at the heart of this again is what transparency is  
19 there in such lobbying activities?---Well, I'm not sure  
20 that I can answer that. So a minister is going to take  
21 advice from multiple sources. You used the phrase just  
22 before that a minister will try to influence their  
23 department. More often than not it is a department  
24 putting a position up to the minister to either - you  
25 know, it could be a range of options on a particular  
26 position. And the minister, if they're worth their salt,  
27 will rigorously question that and, if they have also had  
28 input from other external sources, then they will utilise  
29 that information in assessing the department's position,

1 and hopefully it means that it's arrived at the ultimate  
2 position. I come back to your question of transparency.  
3 What level of transparency are you looking for? There's  
4 no easy answer to it, in my mind, because - - -

5 I'm sorry, Mr Staindl, I used the scenario of the minister  
6 influencing his or her departmental officers because  
7 that's the example you provided - - -?---Yes.

8 When explaining how a minister, other than the planning  
9 minister, might utilise the information that you and your  
10 client provide that other minister. You then put forward  
11 the example that the minister would then convey  
12 information to his or her department, and they might then  
13 develop proposals based upon that. Is that not what you  
14 suggested a few minutes ago?---It's utilised as one of  
15 numerous sources of input into that process. At the end  
16 of the day the minister has to make his or her own  
17 assessment as to the veracity of the information they are  
18 receiving. They will have departmental briefs. They will  
19 have their own personal staff making assessments of that  
20 information and, more often than not, making assessments  
21 of information they have got from the various stakeholders  
22 out there, because it's exceedingly rare that there's only  
23 one external stakeholder influencing a minister or, sorry,  
24 seeking to have input into a minister's deliberations on a  
25 decision.

26 So, coming back to the issue of then transparency, if you look  
27 at the code of conduct which defines lobbying activity as  
28 'the effort to influence', then whether you and your  
29 client go to the planning minister or you go to the

1 Treasurer or you go to some other senior minister with  
2 reasons for accepting your client's or pursuing your  
3 client's interest/objective, should there not be some  
4 transparency about the fact that you have engaged in that  
5 activity in order to influence the ultimate  
6 outcome?---I don't have a problem with transparency. I'm  
7 just not sure what the mechanism to achieve that is,  
8 whether or not there's some sort of declaration by the  
9 minister that in making a determination there has been X,  
10 Y and Z deliberations. Lobbyists have to list their  
11 clients on the lobbyists' register, which can be accessed  
12 by the public, so they will know which lobbyists are  
13 representing which companies or entities. But I'm just  
14 not sure what other mechanism you're proposing there and  
15 whether or not I'm capable enough of understanding  
16 that - of being able to recommend - - -

17 What I'm asking you is whether you can currently identify the  
18 existence of any mechanism at all that currently exists  
19 which would show the Victorian community that there has  
20 been this particular effort to influence. The code of  
21 conduct doesn't require it, and you indicated earlier when  
22 talking about ministerial protocols there's no ministerial  
23 protocol that requires it. As presently advised,  
24 Mr Staindl, I see nothing in the political arena that  
25 would enable the Victorian public to understand when these  
26 lobbying activities take place?---You're probably correct.  
27 I haven't thought it through to that literal level before.  
28 So you're required to list clients, and with any  
29 engagement with government you're required to state that

1           you're operating on behalf of a particular client. But in  
2           terms of ongoing declarations of specific areas, no,  
3           there's nothing that I'm aware of that exists at present.

4   And the register isn't going to provide that solution as it  
5           stands at the moment?---No.

6   No. Yes, Mr Tovey.

7   MR TOVEY: Would that be an appropriate time, sir?

8   COMMISSIONER: Yes. Mr Staindl, we'll adjourn then until  
9           10 o'clock tomorrow morning?---Okay.

10   Thank you very much.

11   <(THE WITNESS WITHDREW)

12   ADJOURNED UNTIL TUESDAY, 10 NOVEMBER 2020 AT 10.00 AM

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