
TRANSCRIPT OF MORNING PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

WEDNESDAY, 18 NOVEMBER 2020

(31st 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 <SAMEH AZIZ, recalled: 10:01:56AM
2 <EXAMINED BY MR TOVEY, continued: 10:02:05AM
3 COMMISSIONER: Good morning, everyone. Welcome back, 10:06:20AM
4 Mr Rubenstein. 10:06:22AM
5 MR RUBENSTEIN: Thank you, Commissioner. Commissioner, if 10:06:23AM
6 I may, just a very small housekeeping matter. 10:06:26AM
7 COMMISSIONER: Yes. 10:06:29AM
8 MR RUBENSTEIN: I have spoken to my client this morning. He is 10:06:29AM
9 unwell. He's got a couple of underlying medical 10:06:33AM
10 conditions, and what he's requested is reasonably regular 10:06:37AM
11 breaks with an opportunity for him to get some fresh air. 10:06:41AM
12 It sort of was difficult yesterday, and he didn't get a 10:06:46AM
13 chance to have a decent break at the lunch break, and 10:06:48AM
14 I think that's impacted his health at the moment. 10:06:51AM
15 COMMISSIONER: Yes. Mr Aziz, I hope I had made clear to you at 10:06:56AM
16 the outset that you should indicate whenever you want a 10:06:59AM
17 break. So we'll certainly break mid-morning. But if you 10:07:04AM
18 would like to break between now and 11.30, any time you 10:07:09AM
19 feel like you're not feeling well or just need a break, 10:07:15AM
20 you should just indicate. Do you follow?---I do, 10:07:19AM
21 Commissioner. I think the problem arose is that I had to 10:07:25AM
22 overlook the transcripts at lunchtime yesterday, which 10:07:27AM
23 were quite extensive, from last year's examination, and 10:07:30AM
24 that was the only time we were given and therefore 10:07:34AM
25 I wasn't able to get an opportunity to have my medication 10:07:36AM
26 or regulate my blood sugar level. 10:07:41AM
27 COMMISSIONER: Well, I'm sorry to hear that. We mustn't allow 10:07:46AM
28 that to occur again. In any event, we'll certainly break 10:07:51AM
29 mid-morning. Mr Rubenstein, are you suggesting we should 10:07:55AM

1 now fix some additional times? 10:08:00AM

2 MR RUBENSTEIN: Commissioner, no, what I'm hoping for is that 10:08:05AM

3 we do have a regular break and a reasonable lunch break 10:08:08AM

4 for Mr Aziz to have some food and to build back up his 10:08:12AM

5 blood sugar levels. 10:08:17AM

6 COMMISSIONER: Yes, certainly. Yes, thank you. Yes, Mr Tovey. 10:08:19AM

7 Mr Aziz, I remind you you are still on oath. 10:08:23AM

8 MR TOVEY: Yes, Mr Commissioner. Could I just raise one matter 10:08:27AM

9 at the outset. I was sent a copy of a newspaper article 10:08:32AM

10 yesterday - I know it wasn't The Age because I had seen 10:08:38AM

11 The Age, so I assume it was probably in the Herald-Sun - 10:08:43AM

12 which reported that I had put to Mr Aziz that something he 10:08:47AM

13 said was a 'bloody lie'. I was somewhat disconcerted by 10:08:54AM

14 that. I have checked with all involved and checked the 10:09:01AM

15 transcript. I suspect that that was a misinterpretation 10:09:05AM

16 of 'blatant lie'. However, I would encourage those who 10:09:09AM

17 reported that to consider making it clear that's not what 10:09:14AM

18 I did. 10:09:18AM

19 COMMISSIONER: Yes. You've made your position clear, Mr Tovey. 10:09:21AM

20 Yes, Mr Tovey. 10:09:23AM

21 MR TOVEY: Now, Mr Aziz, did you at any time have a corrupt 10:09:26AM

22 relationship with Mr Nehme?---No, I haven't. 10:09:33AM

23 Did you ever discuss with him, other than the discussions we've 10:09:38AM

24 already referred to, him giving you a kickback or paying 10:09:46AM

25 you money?---I don't recall, no. 10:09:53AM

26 When you say you don't recall, is that something that possibly 10:09:57AM

27 did happen?---I don't recall that happening, no. 10:10:00AM

28 No, I'm not asking you what you recall. I'm saying is it 10:10:04AM

29 possible that the relationship between you was such that 10:10:07AM

1 you might have discussed him giving you a kickback?---The 10:10:10AM
2 answer is no. 10:10:16AM
3 All right. Could we please have played tab number 261. This 10:10:17AM
4 is a conversation recorded between Mr Aziz and Mr Nehme on 10:10:36AM
5 12 December 2018. Sorry, this is 21 December 2018. 10:10:45AM
6 I misread that. 10:11:04AM
7 (Audio recording played to the Commission.) 10:11:29AM
8 MR TOVEY: Is that a conversation that you had with Mr Nehme on 10:18:13AM
9 that day?---Obviously, yes. 10:18:16AM
10 And you no doubt picked up on his assertion that 'I'm thinking 10:18:18AM
11 you could get a bit of a kick out of assisting'. What was 10:18:28AM
12 that about?---I think he was referring to the deposit that 10:18:32AM
13 he wanted to arrange to help my private refinance go 10:18:36AM
14 through a lot quicker. 10:18:41AM
15 And what was he talking about when talking about 'a 10:18:43AM
16 kick'?---I'm not sure what he had in mind, and it was 10:18:50AM
17 something that was never pursued. 10:18:52AM
18 Did you ever ask him?---No, I didn't because I wasn't 10:18:53AM
19 comfortable with the whole process of how it's going. 10:18:57AM
20 I mean, people say to you all sorts of things. But it's 10:19:01AM
21 not something that I ended up pursuing, and as you're well 10:19:04AM
22 aware, Mr Tovey, I pursued a private lender - sorry, a 10:19:07AM
23 public lender in the end when I was able to secure finance 10:19:11AM
24 to get the property across. 10:19:14AM
25 So when you spoke about 'a kick' you understood it to be 10:19:17AM
26 something inappropriate?---Not necessarily inappropriate, 10:19:21AM
27 but I know that Mr Nehme had a lot of contacts and people 10:19:25AM
28 that could have assisted with the refinance of my house. 10:19:30AM
29 You could only have understood, though, 'a kick' to refer to a 10:19:33AM

1 kickback, couldn't you, in the context of what was being 10:19:37AM
2 said?---But what was in my power to do to enable me to 10:19:40AM
3 receive a kickback? 10:19:44AM
4 I'm not asking you - - - 10:19:45AM
5 COMMISSIONER: Mr Aziz, you did this a number of times 10:19:47AM
6 yesterday and the day before. It's not helpful for you to 10:19:52AM
7 answer questions by posing questions; do you follow? If 10:19:57AM
8 you have something relevant to say in answer to the 10:20:03AM
9 question, you should say it. But please don't engage in 10:20:06AM
10 rhetorical questions?---Commissioner, I'm not engaging or 10:20:11AM
11 trying to engage - - - 10:20:16AM
12 Mr Aziz, I don't want a debate about it. I've just asked you 10:20:17AM
13 to answer the questions, not to ask questions. 10:20:21AM
14 MR TOVEY: So you said that that wasn't something you wanted to 10:20:29AM
15 pursue. I assume that was because it was inappropriate; 10:20:31AM
16 is that right?---I didn't understand what he meant by 10:20:34AM
17 that, and it's not something that I have pursued. 10:20:39AM
18 You didn't ask him what he meant because you knew?---Or maybe 10:20:42AM
19 that I didn't want to know and I didn't want to take it 10:20:46AM
20 any further. 10:20:49AM
21 What was the relationship between you which would entitle him 10:20:55AM
22 to talk to you in what appears to be a very guarded 10:21:01AM
23 conversation over the phone about a kickback and needing 10:21:04AM
24 to talk in person?---Mr Nehme was always very careful, 10:21:07AM
25 given his vast business interests, to talk to me in 10:21:13AM
26 person. He never gave me any indication of what he meant 10:21:20AM
27 by that. All I did was call a friend to see - like 10:21:22AM
28 I called many other friends - to see if I can organise the 10:21:26AM
29 refinancing of my house so that I could take it over and 10:21:31AM

1 complete the divorce settlement as per its terms. 10:21:34AM
2 What house was that?---5 Barak Avenue, Berwick. 10:21:38AM
3 Sorry?---No.5 Barak Avenue, Berwick. 10:21:42AM
4 And tell me if I'm wrong, if my recollection is wrong, but were 10:21:46AM
5 you hoping that when the tenant moved out in February you 10:21:52AM
6 would be able to refinance it and move in?---I wasn't 10:21:58AM
7 going to move in because I was always living with my wife 10:22:06AM
8 at her premises. But I wanted a place in the south-east 10:22:10AM
9 near the home of where my children reside so that I could 10:22:17AM
10 have an opportunity to see them on the weekends when 10:22:20AM
11 I can. 10:22:24AM
12 So you were proposing to live with your wife but keep this 10:22:28AM
13 house empty simply so you could meet up with your 10:22:31AM
14 children?---Not empty. I actually put furniture in it and 10:22:35AM
15 I prepared it for them to have another residence for them 10:22:39AM
16 to be able to spend the weekends that I was able to get 10:22:43AM
17 them at. Now, as it turned out, there weren't many 10:22:47AM
18 weekends because there were difficulties arising in the 10:22:52AM
19 custody arrangements from my former wife. But that's what 10:22:54AM
20 I wanted to do. 10:22:58AM
21 When I said 'empty' what I was indicating was that you were 10:23:00AM
22 going to leave it unoccupied?---Unoccupied as in unrented. 10:23:04AM
23 But there were times when I spent nights at that house 10:23:09AM
24 when I had commitments in Casey that were back to back, 10:23:12AM
25 and so I used to reside in that house overnight to be able 10:23:16AM
26 to meet those commitments. 10:23:20AM
27 So at that stage the income you anticipated having was such 10:23:24AM
28 that it allowed you to cope with that; that is, to keep a 10:23:33AM
29 house which had previously been tenanted, to keep it 10:23:39AM

1 unoccupied and let it remain indefinitely unoccupied and 10:23:44AM
2 not producing any rent?---Yes, I wanted eventually the 10:23:53AM
3 house to go to my children, Mr Tovey, because that was the 10:23:57AM
4 only property - - - 10:24:00AM
5 No, I'm not asking you about where you wanted it to go; you 10:24:02AM
6 understand that, Mr Aziz. Look, you have a tendency to 10:24:05AM
7 turn your responses towards some issue relating to your 10:24:09AM
8 children or your wife which is emotional. All I'm asking 10:24:14AM
9 you is whether or not at that stage you had the 10:24:19AM
10 wherewithal and anticipated having the wherewithal to keep 10:24:24AM
11 an empty house indefinitely without any rent coming in, in 10:24:30AM
12 addition to the house that you lived in?---I'm not sure 10:24:34AM
13 what indefinitely means, but for the time being while 10:24:38AM
14 I was able to keep a secondary residence to see my 10:24:41AM
15 children, yes, I had that intention. 10:24:44AM
16 When I said 'indefinitely', I said that because I understood 10:24:48AM
17 you to say that you needed somewhere to go on meeting your 10:24:56AM
18 children, which would have been indefinitely. This was 10:25:00AM
19 only going to be an interim arrangement, was it, or don't 10:25:05AM
20 you know?---Well, I didn't know what the future would 10:25:09AM
21 hold, and there was a legal complication as well, which 10:25:12AM
22 I wanted to avoid because I didn't want to incur further 10:25:17AM
23 costs. 10:25:20AM
24 So, in any event, if we go to the second page of the transcript 10:25:22AM
25 at lines 22 to 34, that's the proposal that you were 10:25:28AM
26 putting to Mr Nehme; is that right?---As I can recall, 10:25:35AM
27 yes. 10:25:43AM
28 Mr Nehme went on to indicate that he didn't have the money but 10:25:44AM
29 Kevin did. Who was Kevin?---I have no idea. 10:25:52AM

1 Why would Mr Nehme feel a sense of obligation to you which 10:25:56AM
2 involved him going to a business associate to get money 10:26:02AM
3 for you?---Because he regarded me as a friend and he 10:26:07AM
4 wanted to help me out. 10:26:10AM
5 Was that because you had previously assisted him or told him at 10:26:13AM
6 least that you had assisted him in the purchase of 10:26:19AM
7 the property in Casey?---First of all, I didn't assist him 10:26:28AM
8 and, secondly, no. That matter was finished some four 10:26:33AM
9 years earlier. 10:26:39AM
10 Let's be clear. Whether you assisted him or not, you certainly 10:26:41AM
11 made out to him, from what we've already seen, at the time 10:26:44AM
12 that you were assisting him and you were going in to bat 10:26:47AM
13 for him, and that's indeed what I understood you to say 10:26:51AM
14 you were doing?---I went in to bat for him in relation to 10:26:53AM
15 issues that he was experiencing with the City of Casey, 10:26:58AM
16 which, I recalled last night, he actually won out of 10:27:02AM
17 independent litigation anyway without any of my 10:27:06AM
18 intervention. But I would assist any constituent that 10:27:08AM
19 approaches me that has an issue that needs to be resolved 10:27:13AM
20 with council. That's how I operate with everybody, not 10:27:16AM
21 just Mr Nehme or anyone else. 10:27:19AM
22 If you go to this conversation at line 67 - sorry, at line 57 10:27:21AM
23 you say, 'I have started a business but the income's not 10:27:29AM
24 there for 12 months. So they're not taking any of that 10:27:32AM
25 income into account.' What business was that?---I was 10:27:36AM
26 referring to the consulting arrangements I had signed with 10:27:40AM
27 Mr Woodman. 10:27:45AM
28 'The income's not there for 12 months' is what you said, 10:27:51AM
29 whereas Mr Woodman was paying you your \$23,000 a month 10:27:57AM

1 plus \$2,000 cash, that is a total of \$25,000 a month, from 10:28:04AM
2 December of 2018. So why were you saying at that stage 10:28:11AM
3 that the income wasn't there for 12 months? Was it the 10:28:16AM
4 fact that at that stage the contract hadn't been fully 10:28:20AM
5 negotiated in respect of Little River?---No, it's the fact 10:28:26AM
6 that with lending you have to show 24 months of income if 10:28:30AM
7 you're applying as a self-employed person, and the 10:28:34AM
8 contract had only commenced on 1 December. So it hadn't 10:28:37AM
9 been 12 months. It hadn't even been a month. 10:28:41AM
10 If you go down to line 67, you, having talked about the way in 10:28:45AM
11 which you were going to pay the money back, indicated that 10:28:55AM
12 you needed the money for five years?---Two years. 10:28:59AM
13 And then at line 67, 'Okay. All right. The guy - he's 10:29:06AM
14 actually jumped on a boat today and I know he's getting 10:29:13AM
15 money back on January the 20th. He'll be back at work 10:29:19AM
16 I think on the 7th of January,' and you're saying, 'Okay, 10:29:27AM
17 okay, okay.' Who's this guy?---I don't know. I presume 10:29:31AM
18 it's the guy that Mr Nehme was referring to who was 10:29:35AM
19 capable of actually providing me with the private finance. 10:29:38AM
20 Had Mr Nehme provided you the - previously the \$251,000, did 10:29:45AM
21 that come from him or from the business?---I think we 10:29:56AM
22 spoke yesterday about it coming from him personally. 10:29:59AM
23 You don't ask him here, 'Who's the guy, and why would this guy 10:30:06AM
24 be providing money for me?' Why is that? You seem to 10:30:13AM
25 have an understanding with him about that?---He may have 10:30:17AM
26 been someone I assume would be looking at attracting a 10:30:21AM
27 high rate of interest on private lending, which is usually 10:30:26AM
28 what happens. But I just wasn't interested in this 10:30:28AM
29 process, just as I wasn't interested to pursue it through 10:30:31AM

1 private lending with Mr Woodman, and in the end I did go 10:30:35AM
2 to a bank and achieve my lending. 10:30:38AM
3 You went on - at line 75, he says, 'That's going to be your 10:30:42AM
4 best bet,' and you say, 'Sure,' and then he says, 'But 10:30:50AM
5 I don't want to hit the others up yet.' Who were the 10:30:56AM
6 others?---I don't know. They may be other people in his 10:30:59AM
7 network or circle that he could approach with the same 10:31:01AM
8 request. But I didn't discuss that with him. 10:31:05AM
9 You didn't ask him, and I would suggest that the reason you 10:31:08AM
10 didn't ask him was because you knew that he was talking 10:31:11AM
11 about his business partners?---No - - - 10:31:14AM
12 And his close associates?---I totally refute that because that 10:31:18AM
13 wasn't in my mind when we had that conversation. 10:31:21AM
14 And the reason you didn't ask was because you knew that it had 10:31:24AM
15 been a decision, a business decision, of him to give you 10:31:26AM
16 the \$251,000 previously; is that right?---I borrowed money 10:31:33AM
17 off him previously, and I was seeking to achieve further 10:31:41AM
18 borrowing to transfer my house but, after approaching him, 10:31:45AM
19 as is very clear from the conversation, in his personal 10:31:50AM
20 capacity; I'm not talking about anyone else. 10:31:54AM
21 Then at line 81 he says to you, 'Something else we can do which 10:31:57AM
22 we'll talk face to face because we have an issue at the 10:32:11AM
23 moment with a potential purchaser.' What did you 10:32:14AM
24 understand him to mean by that?---I'm not sure 10:32:22AM
25 I understood clearly what he meant by that, but I presume 10:32:26AM
26 he was referring to the on-sale of the properties that 10:32:31AM
27 he'd bought from the City of Casey. 10:32:37AM
28 Then after this did you have any further discussion with him 10:32:41AM
29 about that?---I can't recall that, no. 10:32:43AM

1 Well, after that did you have any understanding as to what his 10:32:49AM
2 ambitions were in respect of the potential purchaser that 10:32:54AM
3 he referred to there?---No, he did mention to me that a 10:33:00AM
4 German retailer was going to look at leasing - well, 10:33:05AM
5 buying one of the properties that they have constructed on 10:33:12AM
6 the site, and I actually recall making an excited Facebook 10:33:14AM
7 post about that to say that this is going to be great for 10:33:22AM
8 jobs and for consumer diversity. But that German retailer 10:33:24AM
9 ended up pulling out of Australia altogether. They were 10:33:29AM
10 going to buy 20 sites, and they pulled out of Australia 10:33:31AM
11 altogether. 10:33:36AM
12 Then you look at lines 84 to 86, and Mr Nehme says to you, 'I'm 10:33:36AM
13 just thinking aloud of a way of getting something,' and 10:33:46AM
14 you say, 'Okay,' and he says, 'As a deposit,' and you say, 10:33:52AM
15 'Sure.' You had been asking for a loan, and now he's 10:34:00AM
16 talking about giving you a deposit?---Yes. 10:34:12AM
17 How did that come about, do you know?---I didn't understand the 10:34:15AM
18 deposit bit because I explained to him earlier in the 10:34:18AM
19 conversation that there was enough equity in the house for 10:34:21AM
20 the lending that I was seeking to take place, less than 10:34:26AM
21 80 per cent, which is normal lending standards, and so 10:34:29AM
22 I wasn't sure if that meant actually getting two loans 10:34:32AM
23 from someone or getting something temporary to enable the 10:34:35AM
24 property to be transferred over in time that the court 10:34:40AM
25 order had stipulated it be transferred over. 10:34:44AM
26 But he's there talking about getting you a deposit, and you 10:34:46AM
27 say, 'Sure.' You must have understood that to him - for 10:34:52AM
28 him to be offering you money by way of a bribe?---No, he 10:34:58AM
29 was not offering - - - 10:35:04AM

1 Just before you answer that, because you weren't even asking 10:35:05AM
2 for a deposit; you were asking for a loan?---Exactly, and 10:35:09AM
3 that's why I politely ended the conversation. I have no 10:35:14AM
4 idea what he was talking about, and I didn't think that 10:35:19AM
5 the private lending would materialise anyway, and so 10:35:22AM
6 I went ahead and pursued other options. But I wasn't in 10:35:25AM
7 need of a deposit at that point. I was actually in need 10:35:30AM
8 of a total refinancing of my property loan. 10:35:33AM
9 COMMISSIONER: Mr Aziz, I just want to be clear, then, do you 10:35:38AM
10 acknowledge that you understood or suspected at the time 10:35:42AM
11 that Mr Nehme might be offering you some improper 10:35:48AM
12 inducement? That crossed your mind at the time, did 10:35:52AM
13 it?---No, it didn't because - I mean, I'm honestly not 10:35:57AM
14 sure how to answer your question, Commissioner, because 10:36:03AM
15 every time I try and elaborate you ask me to be quiet and 10:36:06AM
16 not say anything. So how do you want me to answer that? 10:36:11AM
17 The answer is no, and the reason it's no is because there 10:36:15AM
18 was no decision making in my hands. Why would someone 10:36:17AM
19 offer someone a bribe - - - 10:36:21AM
20 Mr Aziz, you're doing the same thing again?---That's what 10:36:24AM
21 I don't understand, sir, I'm sorry. 10:36:31AM
22 I think you do. Mr Aziz, what you've got to do is answer the 10:36:32AM
23 question, and what I was asking you was: did it cross your 10:36:39AM
24 mind, did you appreciate, that what Mr Nehme was saying to 10:36:45AM
25 you might have been that he was offering you some 10:36:49AM
26 inappropriate, some improper, inducement in order for you 10:36:53AM
27 to do something at council level?---No. 10:36:57AM
28 I thought earlier on you acknowledged that you thought maybe he 10:37:04AM
29 was suggesting something inappropriate and you wouldn't be 10:37:10AM

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a party to it. Did you not say that earlier in your
evidence?---Earlier I believe I said that I did not
understand what he was referring to. Whether that was
interpreted as me saying that he was suggesting something
improper, I don't know what he was suggesting and I still
don't know to this day because this didn't go anywhere.
Mr Aziz, did you commonly have conversations with persons that
had business interests that were connected with council
affairs where people said something to you that might be
construed as offering you some improper inducement? Is
that a common occurrence for you?---It happened on more
than one occasion, yes.
And how would you deal with it when it was clear to you that
they were doing that? How would you actually respond to
the person?---I would generally refer them to a council
officer to deal with the matter when I wanted to keep
completely hands off from the matter. Will I have a
little latitude in just giving you one example that
comes - - -
Yes?---So people often approach you with solar energy schemes
and companies that have got services that they want to
offer to residents, and they say that if we get so many
residents then there may be an opportunity - and usually
it's for council to actually generate an income as a
result of those referrals, and I say to them, 'I don't
know if it's actually legal for council to do that, and
I'm certainly not interested in that. But what I am
interested in is the benefit that it can provide to the
residents in terms of lower power costs and so on. So

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10:38:36AM
10:38:39AM
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10:38:51AM
10:38:55AM
10:38:59AM
10:39:02AM
10:39:05AM

1 speak to the appropriate officer and see if you can pursue 10:39:08AM
2 the idea.' There are literally millions of ideas that 10:39:10AM
3 have landed on my desk that have been of similar 10:39:14AM
4 persuasion, and I would generally pursue them because 10:39:17AM
5 I really wanted to make the City of Casey leading edge in 10:39:20AM
6 all those matters. 10:39:24AM
7 Yes. So within that answer was your comment you would say to 10:39:25AM
8 the person if you sensed that they were suggesting 10:39:32AM
9 something illegal, 'I'm not interested in that'; 10:39:35AM
10 correct?---I would either tell them that directly or not 10:39:41AM
11 pursue another conversation with them, yes. 10:39:45AM
12 And we don't find you saying that to Mr Nehme, do we?---It's 10:39:47AM
13 probably because I was not understanding what it is that 10:39:57AM
14 he was referring to. It may have been that time of the 10:40:02AM
15 year in terms of being four days away from Christmas where 10:40:07AM
16 I was too exhausted and I didn't want to actually pursue 10:40:11AM
17 any further discussion. If he had come to me and said, 10:40:14AM
18 'Look, there is a party that I know that may be able to 10:40:18AM
19 provide the lending and I can put you in touch with them 10:40:20AM
20 after Christmas,' maybe I would have pursued the 10:40:24AM
21 discussion a bit further. But I had no idea what he was 10:40:26AM
22 talking about and I didn't want to go through - down 10:40:29AM
23 rabbit holes when I had a very limited time to get this 10:40:33AM
24 property transferred over to me. 10:40:37AM
25 Yes. Yes, Mr Tovey. 10:40:38AM
26 MR TOVEY: So - - - 10:40:38AM
27 COMMISSIONER: Look, I'm sorry, I should have completed that 10:40:50AM
28 line of enquiry. Do you accept, Mr Aziz, that the only 10:40:53AM
29 responsible thing for a councillor to do if they are 10:40:57AM

1 engaged in a conversation with a citizen who appears to be 10:40:59AM
2 suggesting to the councillor that in response to an 10:41:06AM
3 improper inducement the councillor might do something for 10:41:12AM
4 them is for the councillor to make it crystal clear to the 10:41:15AM
5 person that they are not interested in engaging in such an 10:41:19AM
6 activity?---Yes, and I've done that on many occasions 10:41:24AM
7 before. 10:41:31AM
8 And the councillor would not want under any circumstances that 10:41:31AM
9 person to go away left with the impression that the 10:41:35AM
10 councillor might engage in such an activity?---Yes, and 10:41:38AM
11 I've done that too before. 10:41:44AM
12 But you didn't do that here, did you?---No, I didn't, and 10:41:45AM
13 I can't explain to you the reasons why. 10:41:49AM
14 MR TOVEY: He tells you then that Kevin's coming back - 'He may 10:42:09AM
15 be back just after Christmas, but he won't be able to do 10:42:16AM
16 anything until sort of the start of January.' Do you see 10:42:21AM
17 that at 92? You didn't know who Kevin was, you say?---No, 10:42:25AM
18 I didn't. 10:42:29AM
19 But he's putting Kevin as the person who's going to provide the 10:42:30AM
20 money. Is there any reason you didn't ask him anything 10:42:33AM
21 about Kevin, because at that stage you were still 10:42:37AM
22 interested in getting the money?---Once again, I probably 10:42:40AM
23 lost interest in the conversation by then. So there was 10:42:46AM
24 no point in me asking any questions. 10:42:49AM
25 Then over the page at page 102 and - line 102 he told you there 10:42:55AM
26 was a sale happening, 'Casey and Regency from a mob called 10:43:01AM
27 Newmark,' and tells you more about it. Then at 109 he 10:43:09AM
28 says, 'They went and saw council. So they have signed a 10:43:20AM
29 contract subject to. They went and saw council and 10:43:30AM

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council said to them, "We want offices out the back and a little bit of retail." They're saying, "Well, offices - there's plenty of offices there and a lot of them are still empty.'" And so the conversation went on to where at 119 he says, 'They need some comfort. They want the comfort of being able to sit down with someone to say, "Look, okay, this is about to be rezoned, it's on the minister's desk.'" Then you intervened and said, 'The decision has been made already.' Then you ultimately indicated at 132 that, 'It's not too late because a decision has been made to redevelop the entire precinct. I've got to find out what the details are.' So, far from withdrawing, you seem there to be actually engaging with him and undertaking to find out more details; would you agree with that?---Yes, I would. But there's a reason for that.

What was that?---We had just, from memory, approved a precinct - what we call a precinct structure plan for that whole area. It was in the middle of my ward, and I was very interested in it from that perspective. Always in situations like this we would open dialogue between potential developers and council to see what we could get better for our residents, and so if they had retail concepts that were going to be more beneficial I wanted to have them to have that dialogue with our council officers. But I did indicate to him that council had approved the precinct structure plan, but these things are always subject to review at all times until they're actually implemented. So - - -

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1 What you're describing there is what you did by way of planning 10:45:44AM
2 to engage with the council on this issue and why you did 10:45:48AM
3 that. But I'm not asking you why you did it, because 10:45:52AM
4 I understood you to be telling the Commissioner that once 10:45:58AM
5 you had a hint of impropriety you didn't want to get 10:46:02AM
6 engaged in the matter. But here you are - - - 10:46:06AM
7 MR RUBENSTEIN: Objection. I'm not quite sure that's what 10:46:12AM
8 Mr Aziz's answer was. That's an extrapolation of what the 10:46:14AM
9 evidence was that Mr Aziz gave, and I'm not quite sure 10:46:19AM
10 that that's right. My recollection is that Mr Aziz 10:46:22AM
11 indicated that once he had had the discussion about the 10:46:24AM
12 loan his interest in the conversation ended at that point 10:46:28AM
13 in time. 10:46:31AM
14 COMMISSIONER: Yes, I'm not sure that that characterisation is 10:46:33AM
15 correct either, Mr Rubenstein. His position might be 10:46:35AM
16 somewhere between the two of you. 10:46:40AM
17 MR TOVEY: Mr Commissioner, I'll rephrase the question. 10:46:43AM
18 Irrespective of how your previous interaction during the 10:46:49AM
19 phone call might be characterised, it is fair to say, is 10:46:54AM
20 it not, that you did not walk away; indeed, you undertook 10:47:01AM
21 to do further things to assist him?---Yes, and I probably 10:47:05AM
22 would have done them had I been asked again. 10:47:11AM
23 But you say that after this conversation you in fact did 10:47:16AM
24 nothing?---Because he didn't approach me with the 10:47:20AM
25 specifics of exactly what their aspirations were - - - 10:47:23AM
26 And did you have any further discussions with him about this? 10:47:28AM
27 COMMISSIONER: Sorry, Mr Tovey, you should let Mr Aziz complete 10:47:33AM
28 his answer. Did you want to say something further 10:47:36AM
29 there?---Yes, thank you, Commissioner. There's two parts 10:47:39AM

1 to this. There's the part about me trying to obtain a 10:47:41AM
2 loan through private lending, and there's the part about 10:47:45AM
3 what they wanted to do in terms of developing that whole 10:47:48AM
4 precinct. The bit about me trying to obtain a private 10:47:52AM
5 loan in my mind was finished then because I didn't know 10:47:55AM
6 what Mr Nehme had in mind, and, quite frankly, I couldn't 10:47:57AM
7 really wait around to find out. I had to get the property 10:48:01AM
8 transferred. But the part where he required me to do 10:48:03AM
9 something in my public role, I would still be happy to 10:48:07AM
10 assist him with no matter what because I wanted to see the 10:48:10AM
11 precinct developed. We had great aspirations for that 10:48:14AM
12 particular part of Casey, and I wanted to see them come to 10:48:17AM
13 fruition. That's all I wanted to do. 10:48:20AM

14 MR TOVEY: Now, you understand, do you, or you've heard of the 10:48:26AM
15 concept of conflict of interest?---Yes, I do. 10:48:32AM

16 And tell me in your view is it a conflict of interest, if a 10:48:39AM
17 councillor has a financial relationship with somebody, to 10:48:46AM
18 engage with the council on that person's behalf to seek to 10:48:52AM
19 have a result obtained which suits that person?---No, 10:48:59AM
20 because advocacy I don't see as a conflict of interest. 10:49:06AM
21 I see the conflict of interest perhaps when you come to 10:49:11AM
22 vote on a matter. So you have the ability to influence 10:49:15AM
23 the matter through your vote. But advocating on behalf of 10:49:18AM
24 someone, it happens all the time in local government. 10:49:22AM

25 Well, obviously - - - 10:49:27AM

26 COMMISSIONER: Just a moment, Mr Tovey. What happens all the 10:49:28AM
27 time in local government? That people advocate on behalf 10:49:31AM
28 of someone even though they are in a conflict of interest 10:49:36AM
29 position with them? Is that what you meant?---In my 10:49:40AM

1 situation I was potentially going to - - - 10:49:43AM
2 No, no, please, Mr Aziz. I've asked you a specific question. 10:49:47AM
3 I would like an answer to it. I'm trying to understand 10:49:50AM
4 your observation that it happens all the time in local 10:49:53AM
5 government?---That's right. 10:49:59AM
6 What was it that happens all the time in local government?---So 10:50:01AM
7 what happens if you have a conflict is that you may 10:50:06AM
8 abstain from voting or debating the matter in the council 10:50:11AM
9 chamber. But it doesn't stop you from actually advocating 10:50:15AM
10 a position that you ultimately have no control or decision 10:50:19AM
11 making over because the officers decide those matters, not 10:50:21AM
12 the councillors. 10:50:25AM
13 Sorry, so it's your experience, is it, Mr Aziz, that it happens 10:50:28AM
14 all the time that councillors who are in a conflict of 10:50:33AM
15 interest situation with a third party nonetheless feel 10:50:38AM
16 free to advocate on behalf of or pursue the objective of 10:50:45AM
17 that third party without voting on any motion?---If there 10:50:49AM
18 was a conflict at that time, I have seen it happen, yes. 10:50:56AM
19 You may have seen it - do you understand, Mr Aziz, that, quite 10:51:01AM
20 aside from personal issues concerning you, the Commission 10:51:06AM
21 has an interest at the end of the day arising out of this 10:51:10AM
22 investigation to ensure that the best possible regime 10:51:14AM
23 exists in relation to local government affairs? Do you 10:51:19AM
24 understand we have that overriding objective?---I've seen 10:51:23AM
25 it in your terms of reference, yes. 10:51:28AM
26 Yes. And so one of the issues the Commission is interested in 10:51:30AM
27 addressing is how well conflict of interests which exist 10:51:35AM
28 for a councillor are managed at a council level. You said 10:51:41AM
29 a moment ago, and I thought you were saying, that it 10:51:47AM

1 happens all the time that councillors are in a conflict of 10:51:51AM
2 interest position but nonetheless feel free to advocate on 10:51:56AM
3 behalf of or in support of a particular motion or issue 10:52:02AM
4 that the third party wants to see effected so long as they 10:52:08AM
5 don't vote on the issue. When I asked you about that you 10:52:13AM
6 then seemed to qualify what you've said by saying, 'I have 10:52:17AM
7 seen it happen.' Now, was it something in your experience 10:52:22AM
8 that happened all the time or not?---Yes, it does, and I'm 10:52:27AM
9 trying to give you the most precise answer I possibly can 10:52:32AM
10 without being unfair to anybody else, so - - - 10:52:36AM
11 Yes?---I have seen it happen, Commissioner. I have seen it not 10:52:38AM
12 only in Casey but in other municipalities because I've 10:52:44AM
13 been in this industry for over a decade, and when it does 10:52:47AM
14 happen it happens in situations when the councillor has no 10:52:52AM
15 decision making power and all you're doing is representing 10:52:56AM
16 the points of view of your constituents to the 10:53:00AM
17 administration but the administration still has the 10:53:04AM
18 responsibility for taking a final decision. 10:53:08AM
19 I'm sorry, but we're talking here about councillors who 10:53:13AM
20 ultimately vote on the issue. Are you drawing a 10:53:15AM
21 distinction between making representations to council 10:53:20AM
22 officers even though a councillor is in a conflict of 10:53:24AM
23 interest situation, and advocacy or representations to 10:53:28AM
24 other councillors? Are you drawing a distinction between 10:53:32AM
25 the two?---I'm drawing that distinction definitely because 10:53:36AM
26 advocating to your colleagues, the councillors, who would 10:53:41AM
27 make decisions would definitely be a breach of the 10:53:46AM
28 conflict of interest, because they are the group of people 10:53:49AM
29 alongside you that will ultimately have power over the 10:53:53AM

1 matter. But advocating to a council officer, particularly 10:53:55AM
2 in more technical matters, to me is quite appropriate 10:53:59AM
3 because that's what you're elected to do, to represent the 10:54:03AM
4 views of everybody. 10:54:06AM
5 So that there is no mistake about this hereafter, Mr Aziz - - 10:54:09AM
6 -?---Yes. 10:54:17AM
7 You are saying that it would not be appropriate for a 10:54:17AM
8 councillor who is in a conflict of interest with a third 10:54:20AM
9 party to make representations or advocate to other 10:54:24AM
10 councillors about the issue which that third party wants 10:54:30AM
11 decided in their favour?---Yes, but can I have your 10:54:37AM
12 indulgence in adding just one - - - 10:54:42AM
13 No, no, no, not - just for a moment I just want there to be 10:54:44AM
14 clarity over your position. But you then say, whilst you 10:54:49AM
15 can't advocate or represent to fellow councillors if 10:54:53AM
16 you're in a conflict, it would be all right for you to do 10:54:56AM
17 so in relation to council officers?---Yes, but with 10:54:59AM
18 councillors it's different between persuasion and 10:55:04AM
19 coercion. 10:55:07AM
20 I'm not talking about coercion, Mr Aziz. I'm simply talking 10:55:09AM
21 about something we've heard countless pieces of evidence 10:55:16AM
22 about that councillors at Casey, including you, who were, 10:55:20AM
23 as the evidence suggests, in a conflict of interest 10:55:28AM
24 situation nonetheless advocated or represented issues to 10:55:30AM
25 fellow councillors as to how they should vote?---Sir, 10:55:37AM
26 debated, not represented. So it would be approached 10:55:43AM
27 differently at council level. So at council level you may 10:55:47AM
28 participate in the debate if you're conflicted, which 10:55:51AM
29 I understand you shouldn't be, and I openly make that 10:55:56AM

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admission.

Yes?---But there's a very big difference between persuading through a debate and then calling people, trying to marshal votes before a council meeting.

I'm sorry, and so the latter is not appropriate but the former is?---The latter is definitely not appropriate, and the former is appropriate provided that you are actually not aware that a conflict in your mind is occurring.

So if there's a conflict of interest and you are or should be aware that there is a conflict of interest then you accept it would be inappropriate for a councillor to make representations or to advocate on behalf of or in favour of an interest which that third party with whom you have a conflict of interest is interested in achieving?---Yes.

In either case, if you're speaking to a fellow councillor or a council officer, do you accept that you should at least tell that person if you're saying something that's in support of the interests of that third party that you are in a conflict of interest position, or is that something you don't need to reveal?---I think you would reveal it if you are actually trying to influence their decision. But if you're simply saying, 'This is the problem that has been presented to me. I'm referring it to you for your attention and resolution,' and you leave it to them to resolve it without suggesting which way the resolution should go, then sometimes people guard their relationships a bit more closely because of the amount of sabotaging and leaking that occurs at a local government level that can get people in trouble very quickly and unnecessarily at

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times.

Yes. So in relation, for example, to Mr Nehme - - - ?---Yes.

In relation to the matters that were shown to you yesterday afternoon, did you ever say to any of the council officers to whom you were relaying Mr Nehme's concerns, did you ever say to any of those council officers that you were in a conflict of interest situation with Mr Nehme?---I don't recall being in a conflict of interest situation at the time that he raised those matters with me, because there was no commercial relationship between us as in me borrowing a loan from him. But further to that, sir, I have been able to reflect on this matter further, and I recall that the critical matter that he raised with me, which is the \$400,000 worth of overdue rent, I recall that now that Mr Nehme actually took council through litigation on this matter and independently won that case against the City of Casey without any of my intervention. I also recall that there was a degree of bureaucratic resistance to resolving the complaint, and that's the culture that I wanted to end at Casey because I wanted the officers to be a bit more responsive to the requests and aspirations that any of my constituents make, whether they be a resident or a business person trying to develop the area. So when you find that culture resistance you try and basically let people know that you won't let the matter settle until there is a satisfactory resolution that is equitable to all parties.

Do you realise what you've just done, Mr Aziz?---What have I done?

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1 You've just made another speech that has nothing to do with the 11:00:15AM
2 question that I was asking you?---Right. 11:00:19AM
3 And, Mr Aziz, do you not appreciate the Commission's received a 11:00:23AM
4 vast amount of evidence in public concerning your 11:00:28AM
5 activity, and the Commission must give you an opportunity 11:00:33AM
6 to deal with each of those matters. The amount of time 11:00:38AM
7 that you waste in not answering questions and making a 11:00:42AM
8 speech simply impedes our progress in going to each of 11:00:49AM
9 those matters with you to give you an opportunity to 11:00:57AM
10 respond to them. Do you not follow that?---I follow that 11:00:58AM
11 perfectly. 11:01:04AM
12 Well, then please do not make speeches. Just answer the 11:01:05AM
13 questions. Now, in relation to Mr Nehme the short answer 11:01:09AM
14 to my question, I take it, was, no, you did not think you 11:01:15AM
15 were in a conflict of interest position with him when you 11:01:20AM
16 made whatever representations you did to council officers; 11:01:23AM
17 is that the position?---That's correct, yes. 11:01:27AM
18 Thank you. Yes, Mr Tovey. 11:01:30AM
19 MR TOVEY: Going back to the conversation that we were asking 11:01:36AM
20 you about, if you look at line 132, you tell him, 'No, 11:01:44AM
21 it's not too late because a decision has been made to 11:01:59AM
22 redevelop the entire precinct. I've got to find out what 11:02:04AM
23 the details are.' Then you go on to say, 'But it could be 11:02:09AM
24 consistent with their objectives but we may not wish to 11:02:17AM
25 tell them that at this time.' What were you saying 11:02:21AM
26 there?---I was saying that the precinct structure plan may 11:02:29AM
27 be consistent what they want to achieve, but we didn't 11:02:33AM
28 want to give them false hope at this time, and if it 11:02:37AM
29 didn't then there would be an opportunity to negotiate 11:02:40AM

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with the council officers.

So who's 'we may' - when you talk about 'we', you are already on board with the project?---I'm talking about we as in the City of Casey.

COMMISSIONER: Were you expecting, Mr Aziz, that Mr Nehme would not pass on the information that you just communicated to him?---I didn't know who these parties were, Commissioner. But you were saying to him the City of Casey, the council, may not want them to know about it at this stage. Were you assuming then that Mr Nehme would not pass that information on?---Possibly, yes.

Possibly?---Yes. I don't know. I can't recall that conversation or the context in my mind.

You don't need to remember it. It's there for you to read?---Yes.

I just want to give you an opportunity to respond to what I see is the impression that was conveyed here that you were telling Mr Nehme something that the council might not yet want disclosed. You shouldn't have done that, should you?---No, because the precinct structure plan was a public document. It was out there. But they may not have seen it yet. So I wanted to make sure what the details were before we went back and gave any advice as to what may be in that document.

'We may not wish to tell them that at this stage'?---Yes, because I wanted to check it first before I gave any advice of what it is that was in the document that other correspondence goes against with what they are aspiring to do.

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1 Yes. 11:04:47AM

2 MR TOVEY: In the context you just described 'we' means you and 11:04:48AM

3 Mr Nehme?---I was referring to 'we' as in the City of 11:04:51AM

4 Casey. 11:04:58AM

5 It doesn't make much sense, I'd suggest. But, anyway, we'll 11:04:59AM

6 move on. So then you talk about getting the kickback, and 11:05:03AM

7 then at 150 - - - 11:05:13AM

8 COMMISSIONER: Mr Aziz doesn't talk about - - - 11:05:18AM

9 MR TOVEY: I'm sorry, you don't accept that that was - you 11:05:21AM

10 understood that to be talk about a kickback? I thought 11:05:26AM

11 you had conceded that. 11:05:28AM

12 MR RUBENSTEIN: No, I object to that. What Counsel Assisting 11:05:30AM

13 just put was that Mr Aziz had made reference to - - - 11:05:33AM

14 COMMISSIONER: Mr Rubenstein, I made that observation. 11:05:37AM

15 Mr Aziz - - - 11:05:41AM

16 MR TOVEY: Sorry if I've put that inappropriately. 11:05:42AM

17 I understood you to say when he mentioned a bit of a kick 11:05:46AM

18 you knew what he was talking about was a kickback?---No, 11:05:52AM

19 I don't necessarily understood that to be the case, no. 11:05:55AM

20 You thought that, what, he was inviting you to a game of 11:06:00AM

21 football, or you tell me what you thought it 11:06:04AM

22 meant?---I thought that he was talking about it again in 11:06:08AM

23 the context of private finance. But, again, I didn't 11:06:11AM

24 understand what he meant by that, and I didn't really want 11:06:13AM

25 to pursue it any further. 11:06:17AM

26 Why not? 11:06:18AM

27 COMMISSIONER: Why not?---Because it's just not something 11:06:20AM

28 I understood and, given the time imperatives, I just 11:06:24AM

29 didn't understand what it meant. Again, I refer to the 11:06:27AM

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time of year the conversation was made. It's not something I was keen on pursuing. I just didn't understand it. I just didn't understand what he meant by that. I wanted private finance. He said to me the guy's going to be away. Then he came to speak about these other people, and I just thought, 'Why are we shifting in the conversation?'

Again, Mr Aziz, I come back to the earlier criteria that you acknowledged is a standard expectation one would have of a councillor. If you got the impression that someone was suggesting to you some improper inducement, you would need to make it crystal clear to them then and there that that was not acceptable, that you were not interested in it; is that not so?---Yes, and I've confirmed that I have pushed back on a number of occasions.

Leaving aside the question of if a councillor thought that there was an attempt to bribe them that that would constitute a criminal offence, would it not?---In my mind, yes.

But you didn't do that and indeed you finished that piece of the conversation - after Mr Nehme refers to the deposit on the house, you finish that conversation saying - if you could just go down below 148, please. When he says, 'Could be something,' you say, 'All right. Leave it with me. I'll need to know more details but we really need to probably catch up face to face.' Now, I don't get the impression from that that you were dismissing him and saying, 'This is really not something appropriate for you to raise with me.' I get quite the opposite impression.

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1 Is that unfair?---It is unfair because not only did that 11:08:31AM
2 meeting not go ahead but, secondly, I felt that he may not 11:08:36AM
3 have understood exactly what I was seeking to do. I was 11:08:42AM
4 seeking private finance, not a deposit, not a loan for 11:08:46AM
5 short-term purposes. So I just said 'leave it with me' 11:08:51AM
6 because that's what I generally finish conversations with 11:08:55AM
7 when I just think they're not going to go anywhere. But 11:08:58AM
8 that conversation didn't go anywhere. There was no 11:09:02AM
9 representation made to me by the purchasers. 11:09:04AM
10 No, no, you said, 'Leave it with me. I'll need to know more 11:09:07AM
11 details but we really need to probably catch up face to 11:09:13AM
12 face'?---Yes, and that catch up face to face was more 11:09:16AM
13 about me giving him more details about the loan that I was 11:09:18AM
14 seeking so that he could go and speak to his people. 11:09:23AM
15 Yes. 11:09:23AM
16 MR TOVEY: So you did catch up face to face about the 11:09:27AM
17 loan?---No, that never took place. We didn't catch up 11:09:30AM
18 face to face. 11:09:33AM
19 Did you ever have any further discussion with him in respect to 11:09:35AM
20 the loan ?---I can't recall, Mr Tovey. 11:09:38AM
21 Well, as the Commissioner has pointed out to you, you go out on 11:09:43AM
22 the basis that you're going to meet with him and get more 11:09:49AM
23 details in circumstances where you've already, I'd 11:09:53AM
24 suggest, indicated that there are things you don't want to 11:09:59AM
25 talk - or he doesn't want to talk about on the phone. 11:10:03AM
26 Would you agree that that's basically the tenor of what 11:10:08AM
27 was occurring at the time?---It may be how you interpret 11:10:10AM
28 it, but I do recall that very early in the new year I met 11:10:15AM
29 with a new broker, who was able to secure finance through 11:10:18AM

1 a proper lender for me. 11:10:20AM

2 And when was that?---It would have been early January 2019, but 11:10:22AM

3 I don't have the exact date. 11:10:28AM

4 Because as of the - was this 21 December? As of 21 December, 11:10:33AM

5 if you go to lines 67 and following, you had left it on 11:10:45AM

6 the basis that the guy who jumped on the boat was going to 11:10:53AM

7 be getting some money back on January the 20th, and he'd 11:11:04AM

8 be back at work on 7 January. And you say, 'Okay.' And 11:11:12AM

9 you asked then, 'If you can hold out until then?' And you 11:11:18AM

10 say, 'Absolutely.' Now, was that the situation? Was that 11:11:24AM

11 your state of mind at the end of that conversation?---That 11:11:28AM

12 was simply me being polite to say thank you but no thank 11:11:30AM

13 you, because, like I said, very early in January I didn't 11:11:35AM

14 wait for whoever guy he was talking about to come back. 11:11:38AM

15 I approached an independent broker and that broker 11:11:41AM

16 submitted a finance application on my behalf. 11:11:44AM

17 You don't say 'thank you'. You say, 'Absolutely,' indicating 11:11:48AM

18 what I'd suggest is a degree of enthusiasm about the 11:11:52AM

19 proposition?---The language in the conversation doesn't 11:11:56AM

20 reflect my conduct thereafter. It could have been a 11:11:59AM

21 million reasons as to why I said that to him. I could 11:12:03AM

22 have been distracted. I could have been disappointed that 11:12:06AM

23 there were no closer solutions and I needed to make this 11:12:09AM

24 happen. There's a million reasons as to why I may have 11:12:14AM

25 used that language. 11:12:16AM

26 Look, Mr Aziz, you don't agree that at that stage you actually 11:12:19AM

27 had any contemplation that this might go ahead?---I had no 11:12:27AM

28 contemplation that this might go ahead at that stage. 11:12:31AM

29 But, Mr Aziz, you said at line 94, after discussing the deposit 11:12:34AM

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and the matters - the fact that he was going to speak to
Kevin, you say, 'No, that's fine, that would be perfect.
I mean, oh, the reality is I'd be lucky to get anyone
before the 7th of January'?---M-hmm, and I - - -
That was just totally untrue, was it?---I happened to be lucky
to get someone early in January. So I was assuming that
people would be away until at least 7 January, which is
what happens every year. But the person that was
recommended to me was luckily for me working over the
holiday period.
I didn't ask you, Mr Aziz, what happened. You're a champion,
I might suggest to you, at not answering the question.
The question was a simple one. When you there said, 'That
would be perfect. The reality is I'd be lucky to get
anyone before the 7th of January,' were you then expecting
that the matter might proceed?---No. I didn't know what
was going to proceed.
So you didn't meet after this with Mr Nehme?---Didn't meet to
what?
Did you meet with Mr Nehme after - - -
COMMISSIONER: You need to be clear, Mr Tovey. Do you mean
meet at all for any purpose or in relation to this matter?
MR TOVEY: Did you meet with Mr Nehme shortly after this to
discuss the proposition further?---I don't believe I did,
no.
Did you speak to him on the phone about getting more details?
I assume from what you say you couldn't have done that
because you had no intention at that stage of becoming
further involved?---I can't recall if I was speaking to

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1 him after that or not. I can't even recall this 11:14:49AM
2 conversation if it wasn't brought to my attention. 11:14:51AM
3 Did you in fact pursue it with council officers?---I don't 11:14:55AM
4 believe so because I had no details to pursue. 11:15:01AM
5 All right. I tender that recording and the transcript. 11:15:07AM
6 COMMISSIONER: Conversation of 21 December 2018 will be exhibit 11:15:19AM
7 270. 11:15:22AM
8 #EXHIBIT 270 - Tab 261. Audio recording and transcript of call 11:15:25AM
9 between Mr Aziz and Mr Nehme on 21/12/18. 10:10:40AM
10 COMMISSIONER: Are you moving on to something else, Mr Tovey? 11:15:29AM
11 MR TOVEY: I am. 11:15:31AM
12 COMMISSIONER: Very well. We might have a break now for 11:15:33AM
13 10 minutes, Mr Aziz?---Thank you. 11:15:35AM
14 (Short adjournment.) 11:15:42AM
15 COMMISSIONER: Yes, Mr Tovey. 11:29:00AM
16 MR TOVEY: Mr Commissioner, could we now have played - just 11:29:19AM
17 before I do that, I just want to make it clear as of 11:29:29AM
18 21 December you had no involvement in trying to promote 11:29:36AM
19 his interests, that is Nehme's interests, or his partner's 11:29:43AM
20 or employer's interests in respect of the Casey leisure 11:29:49AM
21 centre?---I don't recall, Mr Tovey. 11:29:56AM
22 Could we have played, please, Mr Commissioner, tab 265, which 11:30:09AM
23 is a call between Mr Aziz and Mr Peter Fitchett, who is a 11:30:20AM
24 planning officer at Casey City Council. Before this is 11:30:28AM
25 actually played, Peter Fitchett, what role was he? Was he 11:30:37AM
26 the chief planning officer or?---The director of 11:30:42AM
27 planning, as I recall. 11:30:46AM
28 All right. This is 9 January. 11:30:47AM
29 (Audio recording played to the Commission.) 11:31:05AM

1 MR TOVEY: So that is 9 January 2019; is that right?---Yes, 11:36:50AM
2 I guess so. 11:36:58AM
3 And it's apparent, is it not, if we can just cut to the chase, 11:37:01AM
4 that in the course of that conversation you had a lot more 11:37:08AM
5 detailed knowledge of what Mr Nehme's proposal was than 11:37:13AM
6 was discussed in the previous phone call?---Yes, it 11:37:16AM
7 appears to be the case. 11:37:23AM
8 And that was because you had met with him?---No. 11:37:24AM
9 Well, in the previous phone call you indicated that if the 11:37:29AM
10 matter was to be further discussed it was appropriate to 11:37:35AM
11 meet face to face. How can you say you didn't meet with 11:37:37AM
12 him. Do you know whether you did or you didn't?---I don't 11:37:40AM
13 recall meeting him - - - 11:37:42AM
14 Look, Mr Aziz, if I could just stop you there. You have to be 11:37:44AM
15 careful. You're on oath. You understand that? First you 11:37:50AM
16 deny meeting him. Then I point out something which 11:37:54AM
17 indicates that you must have met him, and then you say you 11:37:57AM
18 can't recall whether you did or you didn't. Now, that 11:38:01AM
19 does not, I respectfully suggest to you, indicate that 11:38:04AM
20 you're trying to tell the truth?---I am telling the truth. 11:38:08AM
21 Could we start again. Do you agree, having seen this 11:38:12AM
22 conversation, that it is likely that in fact you had met 11:38:15AM
23 with him and got further detail?---No, because he may have 11:38:21AM
24 sent me an email containing those details. He may have. 11:38:26AM
25 I don't know what happened. I can't recall. 11:38:29AM
26 All right. In any event, there has been either a meeting or 11:38:31AM
27 other communication between you where he's given you 11:38:35AM
28 additional information; all right?---Possibly, yes. 11:38:38AM
29 And you've already indicated that you felt uncomfortable with 11:38:44AM

1 the nature of his approach on the previous occasion. Why 11:38:50AM
2 is it that you've gone in to bat for him with 11:38:55AM
3 Mr Fitchett?---Because it's my job. Because of what was 11:38:59AM
4 at stake here in terms of the interests of my residents. 11:39:03AM
5 I wanted more employment in Casey. 11:39:06AM
6 At the time that you are now speaking to Mr Fitchett we know 11:39:11AM
7 from the earlier conversation that you were still subject 11:39:17AM
8 to the possibility of a loan from Mr Nehme's associate 11:39:27AM
9 when he came back and when you got the money in late 11:39:34AM
10 January; that was the situation, wasn't it?---No, because 11:39:38AM
11 I believe by then I had met with the other broker that 11:39:43AM
12 actually secured the money. 11:39:48AM
13 Well, you had certainly met with him. But you had a number of 11:39:49AM
14 irons in the fire. It wasn't until 11 January that 11:39:54AM
15 anybody gave you conditional approval for an alternative 11:39:57AM
16 source of finance. So as of 9 January I'd suggest to you 11:40:02AM
17 that you had irons in two fires?---I don't recall the 11:40:08AM
18 exact dates that I got conditional approval on, but I knew 11:40:14AM
19 that it was actually imminent that the approval would come 11:40:18AM
20 through. 11:40:22AM
21 Did you report to anybody the nature of Mr Nehme's earlier 11:40:23AM
22 approach to you in December was of a nature that he was 11:40:30AM
23 talking about giving you a kick and otherwise rewarding 11:40:36AM
24 you inappropriately?---No, because that never happened. 11:40:40AM
25 COMMISSIONER: I'm sorry, Mr Aziz, what do you say never 11:40:54AM
26 happened?---(Indistinct) Mr Tovey's suggesting never 11:40:58AM
27 happened and, Commissioner, with your indulgence, I point 11:41:05AM
28 out to the fact that - - - 11:41:08AM
29 No, no, no, no, Mr Aziz. I just want you to answer the 11:41:09AM

1 questions, please. When you say 'it never happened', what 11:41:14AM
2 do you mean? What never happened?---The loan arrangement 11:41:20AM
3 that was offered to me by Mr Nehme never happened. 11:41:24AM
4 No, no, that's not what Counsel Assisting asked you. Counsel 11:41:26AM
5 Assisting asked you whether you reported the fact that 11:41:30AM
6 Mr Nehme made the proposal or offer to you that he 11:41:35AM
7 did?---No, I didn't. 11:41:41AM
8 Yes, Mr Tovey. 11:41:45AM
9 MR TOVEY: What you've said previously was that you were 11:42:06AM
10 somewhat concerned about some of the matters that Mr Nehme 11:42:11AM
11 had raised in his initial contact with you; is that a fair 11:42:16AM
12 assessment of what you're saying?---I didn't understand 11:42:26AM
13 what he was suggesting. 11:42:30AM
14 But you didn't ask him?---I didn't ask him, no. 11:42:32AM
15 Despite what concern that might have led to in a normal, honest 11:42:45AM
16 councillor, here you are advocating fervently on his 11:42:54AM
17 behalf a few weeks later; is that the situation?---No, 11:42:59AM
18 because what am I advocating for? 11:43:05AM
19 You're raising precisely the things he wanted you to raise with 11:43:10AM
20 the chief planning officer of the council, and that raises 11:43:15AM
21 the concern that in fact you had accepted the kickback 11:43:19AM
22 that I would suggest he was offering you in the first 11:43:24AM
23 conversation?---Absolutely - - - 11:43:27AM
24 Otherwise you wouldn't have gone in to bat for 11:43:30AM
25 him?---Absolutely not. I go bat for everybody, Mr Tovey, 11:43:33AM
26 who are looking to create employment in Casey. That's 11:43:39AM
27 what I do. 11:43:42AM
28 COMMISSIONER: Mr Tovey, if you're moving on from that 11:43:57AM
29 conversation, there's just one matter I want to pick up 11:43:59AM

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from it.

MR TOVEY: There's one matter I need to go to. But, thank you,
please take the opportunity - - -

COMMISSIONER: Yes. Mr Aziz, in relation to the sale to
Mr Nehme's organisation of the leisure centre, the council
officers had been consistently opposed to that, hadn't
they?---For about 20 years, Commissioner.

Yes. And two separate commercial reports had been commissioned
by the council as to whether that property should be sold
or kept, and both of those reports had reached the
conclusion that there would be a significant benefit to
the council in retaining rather than selling the
property?---No, the second report recommended exactly the
opposite, Commissioner.

And the third report, the KPMG report, to which you alluded,
also did not recommend the sale of the property, did
it?---No, the KPMG report didn't. But there was a report
after that commissioned from another property valuation
organisation that highly recommended, showing modelling,
the sale of the leisure centre, and that's the report that
council ultimately accepted.

Yes. Perhaps that's a report we don't have then, Mr Aziz. But
the reports that I've seen referred to - there are three
of them - all consistently expressed a view that it would
be significantly more beneficial to the council to retain
the property?---No, Commissioner, there is definitely one
report independently commissioned that recommended quite
highly that the benefits to the ratepayers from selling
the property were far higher than retaining the property.

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1 Very well. Yes, Mr Tovey. 11:46:10AM

2 MR TOVEY: If I could just take you, Mr Aziz, to line 92 of 11:46:12AM

3 the conversation that we are discussing?---I can't see the 11:46:16AM

4 conversation on the screen any more. 11:46:23AM

5 It will be very shortly. 92. You say to Mr Fitchett, 'Even if 11:46:26AM

6 we have to go forward with a notice of motion that says 11:46:35AM

7 that we might have to re-engage our property consultants 11:46:37AM

8 to do an assessment of what is actually best for the 11:46:40AM

9 future of the city in that location, you know.' What were 11:46:43AM

10 you suggesting there? That, if the officers were against 11:46:49AM

11 it, it might be necessary for the council itself to go 11:46:55AM

12 ahead with a notice of motion to get property consultants 11:47:02AM

13 to give you a report?---No, it was suggesting that, if 11:47:07AM

14 there was merit in providing more meat around what should 11:47:11AM

15 be currently or futurely proposed at that location, that 11:47:16AM

16 I would be happy for Mr Fitchett to suggest a notice of 11:47:20AM

17 motion, wording of which, I would be happy to move it at 11:47:24AM

18 council meeting. That's if that needed to be the case. 11:47:28AM

19 So you were proposing not only to support Mr Nehme by 11:47:33AM

20 intervening with council officers, but you're also 11:47:39AM

21 prepared to support him by taking a proposal to council 11:47:43AM

22 itself to assist him?---Supporting the residents of my 11:47:46AM

23 city in what was best for that location. 11:47:51AM

24 So the answer is yes?---Not to the way you framed the question, 11:47:53AM

25 no, not to Mr Nehme, but to the whole future of the site. 11:47:59AM

26 If you go to line 102, at 102 you indicated, 'There was strong 11:48:03AM

27 resistance around getting rid of the lifestyle centre, 11:48:17AM

28 when we wanted to.' 'Yeah, yeah, yeah. That's right, 11:48:20AM

29 yep, yep.' 'And then we went to an independent report 11:48:26AM

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that suggested that was a good move.' 'Yeah' 'And it's delivered some great outcomes.' Is that the situation, that you saw yourself as being involved in overcoming strong resistance to the sale of the lifestyle centre when it was originally sold?---No.

COMMISSIONER: I'm interested to know, Mr Aziz, whether or not this communication that you had with a council officer was typical of the way in which you would interact with council officers where third parties wanted to see a particular project implemented and you were prepared to support that objective. Was this a fairly representative reflection of how you dealt with officers?---Yes, I would make a call or send an email, Commissioner, and it was basically a way of me initiating dialogue on the issue. But I would always be guided in 90 per cent or 95 per cent of cases by the views of the council officers.

I don't see that here. I don't see you being guided by Mr Fitchett. I see you making very clear to Mr Fitchett what you thought was the appropriate outcome. Do you disagree with that?---Yes, I do, Commissioner, and because there are complexities beneath this issue that I guess if I start to engage in you'll accuse me of making a speech but - - -

I'm not asking you about the complexities of the issues, Mr Aziz. I'm asking you whether or not it's correct to say that what occurs in this conversation is that you are explaining to Mr Fitchett why you think this particular proposal should be adopted?---Not that it should be adopted but that he should explore it with

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1 the representation that's been made to me and what the 11:50:40AM
2 council hopes to achieve on that site. He should explore 11:50:43AM
3 it. 11:50:46AM
4 And I'm wanting to be clear. May I treat this approach that 11:50:47AM
5 you adopted with the officer as typical of the way in 11:50:54AM
6 which you would engage with council officers in advancing 11:50:58AM
7 the merit of proposals that third parties had to various 11:51:01AM
8 developments?---Not necessarily, Commissioner. It just 11:51:06AM
9 depends on the issue. 11:51:11AM
10 I'm sorry, I thought what you said a few moments ago it was 11:51:13AM
11 typical. But what was it then about this conversation 11:51:20AM
12 that was not typical?---It has to do with the - I'm asking 11:51:23AM
13 a senior director within council to talk to someone who's 11:51:30AM
14 made representations to me about what they want to 11:51:35AM
15 achieve, and I'm asking whether that director, should he 11:51:39AM
16 come to a particular position, whether he would need 11:51:44AM
17 support from me by way of a notice of motion. 11:51:47AM
18 No, but returning to your constant emphasis about the creation 11:51:51AM
19 of jobs - - -?---Yes. 11:51:57AM
20 You made clear to Mr Fitchett that you thought this was a 11:51:59AM
21 project that the council officers should approve because 11:52:04AM
22 'I cannot emphasise enough our need to create jobs'?---To 11:52:08AM
23 consider what is the best infrastructure that should be 11:52:15AM
24 put on that site to facilitate that objective of creating 11:52:17AM
25 jobs. May I explain something very quickly, Commissioner? 11:52:19AM
26 What is it you want to explain?---Sometimes precinct structure 11:52:26AM
27 plans are set in place and they allow for certain 11:52:30AM
28 developments to occur over time and never materialise 11:52:34AM
29 because the market will never take them up. In Casey, our 11:52:38AM

1 No.1 - our hungriest objective was to create as many 11:52:43AM
2 opportunities for local jobs for our residents, and so we 11:52:45AM
3 wanted to make sure that the plans or the resources that 11:52:49AM
4 these people were prepared to invest were consistent with 11:52:53AM
5 our planning to make that job creation thing happen. So 11:52:56AM
6 I just simply wanted to initiate dialogue, but ultimately 11:53:01AM
7 it would have been up to the council officers what they 11:53:06AM
8 were going to recommend to me. 11:53:08AM
9 So I'll just try and get an answer once more. Is there 11:53:10AM
10 something about this conversation and the position from 11:53:13AM
11 which you were coming that is not typical of your 11:53:16AM
12 conversations with council officers when you favour the 11:53:19AM
13 council officers adopting a particular development 11:53:26AM
14 proposal by a third party?---Probably that I was 11:53:29AM
15 recommending the objective, which he knew anyway, which is 11:53:38AM
16 job creation. And this conversation would have happened a 11:53:44AM
17 million times over a number of issues. Again, I go back 11:53:50AM
18 to the fact that it has to be specific to the situation. 11:53:55AM
19 Yes, so you accept here that we can characterise this 11:54:01AM
20 conversation as you recommending this 11:54:07AM
21 proposal?---Recommending the objective rather than the 11:54:12AM
22 specific proposal or highlighting the objective, which is 11:54:14AM
23 job creation. How we achieve that, I was waiting on their 11:54:18AM
24 advice. 11:54:23AM
25 Thank you, Mr Aziz. Yes, Mr Tovey. 11:54:23AM
26 MR TOVEY: You say in respect of line 92, if we just go back to 11:54:30AM
27 that, I think I put to you that what you were proposing 11:54:35AM
28 there was, if necessary, you would put forward a notice of 11:54:42AM
29 motion to engage independent property consultants to do an 11:54:48AM

1 assessment. I understood you to say, no, that's not what 11:54:54AM
2 you were saying. Can you tell me what you were saying 11:55:02AM
3 there?---I was saying that if there's a glut of office 11:55:05AM
4 space and that's what the current plans recommend, then we 11:55:10AM
5 should revisit the utility of that and see what other 11:55:14AM
6 possibilities should be considered. 11:55:16AM
7 What was the notice of motion that you were foreshadowing as a 11:55:19AM
8 possibility?---The notice of motion would have been along 11:55:26AM
9 the lines of that officers undertake an assessment, either 11:55:28AM
10 externally through consultants or internally, as to what 11:55:31AM
11 is the best fit on that site to create more jobs for the 11:55:36AM
12 residents of the people of Casey. 11:55:41AM
13 I tender that conversation, Mr Commissioner. 11:55:51AM
14 COMMISSIONER: Exhibit 271. 11:56:07AM
15 #EXHIBIT 271 - Tab 265, audio recording and transcript of call 11:56:11AM
16 between Mr Aziz and Mr Peter Fitchett dated 09/01/19. 11:30:22AM
17 MR TOVEY: Could we now have played, please, tab 266, which is 11:56:27AM
18 a conversation that you have with Mr Nehme following that 11:56:37AM
19 conversation with Mr Fitchett. 11:56:41AM
20 (Audio recording played to the Commission.) 11:57:21AM
21 MR TOVEY: Is that a conversation which took place between you 12:00:18PM
22 on 9 January 2019?---Apparently, yes. 12:00:20PM
23 Is there anything that was said by Mr Nehme to you in the 12:00:34PM
24 course of that conversation that looking at now you didn't 12:00:39PM
25 understand?---Not as far as I can see, no. 12:00:43PM
26 So you report back to him after speaking to Mr Fitchett at 12:00:52PM
27 line 8, 'He appeared to be a lot more receptive and that's 12:00:57PM
28 probably because of the fact that we've currently got the 12:01:04PM
29 planning review.' Is that a planning review a review 12:01:10PM

1 which was looking at some form of restructuring of the 12:01:16PM
2 planning department?---It's a review of how we dispense 12:01:23PM
3 planning services to the community. 12:01:29PM
4 Was it a review as a result of which there was a prospect of 12:01:32PM
5 some people losing their jobs?---It was a review to 12:01:36PM
6 restructure the planning department in response to the 12:01:41PM
7 very poor scores that planning was getting in the annual 12:01:46PM
8 independent local government surveys. 12:01:51PM
9 COMMISSIONER: Mr Aziz, please answer the question?---Nobody 12:01:53PM
10 was going to lose their job, and that's not a decision for 12:01:58PM
11 a councillor to make. That's up to the CEO. 12:02:01PM
12 MR TOVEY: When you're saying 'we are reviewing', it was the 12:02:04PM
13 council that was reviewing, was it, that is the 12:02:07PM
14 councillors?---No, that's the City of Casey organisation. 12:02:09PM
15 Well, you see, you then go on to say in line 11, 'We are 12:02:19PM
16 reviewing everything that's happening in our planning 12:02:25PM
17 department and also, um, also putting on hold the renewal 12:02:26PM
18 of employment contracts for many of our senior planning 12:02:33PM
19 officers'?---Yes. 12:02:36PM
20 Then you go on to say, 'All right, so we're using this 12:02:38PM
21 opportunity, basically to get the right outcome. Remember 12:02:41PM
22 the resistance we had in terms of the sale of the 12:02:45PM
23 lifestyle centre.' So what you are there saying is, 12:02:49PM
24 'I know that this guy is vulnerable because he's worried 12:02:55PM
25 about his contract not being renewed, and we will get the 12:02:58PM
26 right outcome because I can take advantage of that fact'; 12:03:03PM
27 that is the clear, clear message that you are providing to 12:03:07PM
28 Mr Nehme in the course of that conversation, isn't 12:03:11PM
29 it?---No. Do you know why you're incorrect, Mr Tovey? 12:03:14PM

1 No, I don't want to know why. You just explain to me when you 12:03:18PM
2 have referred to the renewal of the employment contracts 12:03:22PM
3 of senior planning officers, why did you refer to 12:03:27PM
4 that?---Because I suggested that the bureaucratic 12:03:31PM
5 resistance that we often find in putting good policies 12:03:35PM
6 through was now being sponsored directly by the CEO as a 12:03:38PM
7 major issue for the organisation, and it was the CEO that 12:03:43PM
8 would have advised us that the planning contracts were not 12:03:47PM
9 being renewed, and Peter Fitchett was months away from 12:03:50PM
10 retiring anyway and I knew that at the time. That's why 12:03:53PM
11 you're incorrect, Mr Tovey. 12:03:56PM

12 COMMISSIONER: Mr Aziz, would you normally convey such private 12:04:00PM
13 information concerning the council affairs to third 12:04:07PM
14 parties?---It wasn't private, Commissioner. It was well 12:04:11PM
15 advertised that we were undertaking a planning review and 12:04:16PM
16 everyone in the organisation knew that the renewal of 12:04:19PM
17 planning contracts, employment contracts, were on hold for 12:04:23PM
18 that purpose. 12:04:26PM

19 So you see nothing wrong with saying to Mr Nehme that 'putting 12:04:27PM
20 on hold the renewal of employment contracts for many of 12:04:34PM
21 our senior planning officers, we're using this opportunity 12:04:37PM
22 basically to get the right outcome,' you see nothing wrong 12:04:44PM
23 with having passed that on to Mr Nehme?---I may not have 12:04:47PM
24 expressed it in the conversation properly, but it was 12:04:50PM
25 actually the planning review that was the point of my 12:04:53PM
26 discussion there. The fact that we are having a planning 12:04:57PM
27 review was a good opportunity to review what we wanted on 12:05:00PM
28 that site, not necessarily - - - 12:05:05PM

29 Mr Aziz, that's not what I'm asking you. I'm asking you about 12:05:08PM

1 the propriety of you telling Mr Nehme this?---It's public 12:05:14PM
2 knowledge, Commissioner. 12:05:20PM
3 That you were considering putting on hold the employment 12:05:22PM
4 contracts of senior personnel in the department was public 12:05:28PM
5 knowledge, was it?---Yes, it wasn't my decision; it was 12:05:32PM
6 the CEO's decision - - - 12:05:36PM
7 No, no, no, no, I'm not asking whose decision. Was it public 12:05:39PM
8 knowledge?---Yes, it was. 12:05:41PM
9 At that point?---Yes, it was. 12:05:43PM
10 And what was the purpose of you telling Mr Nehme that?---To let 12:05:46PM
11 him know that the organisation was dealing with the kind 12:05:52PM
12 of bureaucratic resistance that is often unhelpful to get 12:05:55PM
13 the best outcomes for our residents. 12:05:59PM
14 Yes. Yes, Mr Tovey. 12:06:03PM
15 MR TOVEY: Just going back to that, you said first of all that 12:06:12PM
16 Mr Fitchett appeared to be a lot more receptive 'and it's 12:06:21PM
17 probably because of the fact that we've currently got a 12:06:26PM
18 planning review.' And then you go on to say, 'We are 12:06:29PM
19 putting on hold employment contracts.' Is that what you 12:06:35PM
20 were indicating to Mr Nehme?---No. 12:06:41PM
21 You weren't indicating that at all?---No. 12:06:45PM
22 You then indicate, 'We're putting on hold the renewal of 12:06:49PM
23 employment contracts for many of our senior planning 12:07:01PM
24 officers.' He says, 'Okay.' And you say, 'So we're using 12:07:03PM
25 this opportunity to get the right outcome. Remember the 12:07:10PM
26 resistance we had in terms of the sale of the lifestyle 12:07:14PM
27 centre.' So it seems to be a reasonable interpretation, 12:07:19PM
28 does it, of that conversation that you're saying, 'The 12:07:26PM
29 senior planning officers are worried about renewal of 12:07:32PM

1 their employment contracts. So we're using this 12:07:36PM
2 opportunity' - that's you and Nehme - 'basically to get 12:07:40PM
3 the right outcome. Remember the resistance we had last 12:07:44PM
4 time when we were dealing with the sale of the lifestyle 12:07:50PM
5 centre'; is that not what you were saying?---No, because 12:07:55PM
6 I have no control over people's employment contracts. So 12:07:58PM
7 I can't use it as an opportunity - - - 12:08:02PM
8 I didn't ever suggest to you there that you did have any 12:08:04PM
9 control. What you're doing is, I'd suggest to you, trying 12:08:07PM
10 to impress Mr Nehme that you had some degree of control 12:08:11PM
11 over this process. Whether you did or you didn't, you're 12:08:20PM
12 trying to impress him, and the reason you tried to impress 12:08:24PM
13 him is because you are wanting to get more corrupt 12:08:27PM
14 payments from him, aren't you?---Absolutely not, and 12:08:31PM
15 I think he was too smart not to work that out. 12:08:34PM
16 COMMISSIONER: I must say, Mr Aziz, the impression that I draw 12:08:40PM
17 from this conversation is that you were seeking to impress 12:08:43PM
18 Mr Nehme with the fact that you could play an influential 12:08:46PM
19 role in achieving his objective?---With all due respect, 12:08:51PM
20 Commissioner, I don't need to impress people that I can 12:08:56PM
21 play an influential role because I did play an influential 12:09:01PM
22 role in many matters. 12:09:05PM
23 Yes?---All I was trying to explain to him is that there is a 12:09:06PM
24 planning review and that includes review of everything, 12:09:10PM
25 precinct structure plans, organisational structure, and 12:09:13PM
26 that Mr Fitchett appeared to be a lot more receptive than 12:09:16PM
27 what Mr Nehme had suggested to me in that the officers 12:09:22PM
28 were resistant to any concept of a different outcome on 12:09:28PM
29 that site. So because I spoke to Fitchett directly, and 12:09:31PM

1 he's the boss, he gave me the impression that he was a lot 12:09:35PM
2 more receptive. That's all I was trying to convey. 12:09:37PM
3 Yes. 12:09:40PM
4 MR TOVEY: Then moving on to line 38 you're talking there about 12:09:43PM
5 the proposed meeting between Mr Nehme and Mr Fitchett, you 12:09:51PM
6 say, 'And I'd like that meeting to happen actually without 12:10:01PM
7 me to ensure you' - 'but I want to ensure you that I'm in 12:10:05PM
8 the background fighting.' Is that what you 12:10:13PM
9 said?---I can't see the line, sorry. 12:10:19PM
10 This is line 38?---Yes. Can we scroll down a bit more, please? 12:10:22PM
11 Was that the situation, that you took a role of fighting for 12:10:33PM
12 Mr Nehme in the background?---No. I was fighting for a 12:10:40PM
13 broader outcome in relation to planning, not necessarily 12:10:47PM
14 what Mr Nehme had aspired to or what his purchasers were 12:10:51PM
15 aspiring to. But I wanted to let him know that not every 12:10:56PM
16 meeting needed to happen with me present because I'm 12:10:59PM
17 fighting for global issues to do with the future of 12:11:02PM
18 planning and strategic planning in the City of Casey. 12:11:05PM
19 You go on to say, 'For the right outcome all the way through,' 12:11:10PM
20 which I suggest to you is Mr Nehme's outcome. Then 12:11:14PM
21 Mr Nehme, after some indistinct words, says, 'No, that's a 12:11:17PM
22 sensible move' - that is you staying in the background 12:11:22PM
23 fighting for him - 'because then nobody can question the 12:11:25PM
24 other.' What did you understand that to 12:11:33PM
25 mean?---I understood that to mean no-one can question what 12:11:36PM
26 we're all aspiring to do; so the other person, as in 12:11:39PM
27 someone else getting involved in this matter. So 12:11:45PM
28 'fighting all the way through' again proves my point that 12:11:49PM
29 I was meaning to talk about or meaning to attend global 12:11:52PM

1 planning and strategic planning issues in the City of 12:12:00PM
2 Casey. 12:12:01PM
3 Could you explain that to me again, I'm sorry, I couldn't 12:12:01PM
4 understand it? When he says to you, 'That's a sensible 12:12:04PM
5 move' - you staying in the background - 'then nobody can 12:12:09PM
6 question the other'?---I thought he meant the other 12:12:12PM
7 person. 12:12:19PM
8 What did the 'other' mean?---I thought he meant the other 12:12:19PM
9 person as in question the other. I didn't understand that 12:12:21PM
10 to mean anything else other than that. 12:12:28PM
11 What other person are we talking about? 12:12:32PM
12 MR RUBENSTEIN: Commissioner, if I may interrupt at this point. 12:12:37PM
13 Would it be possible to replay the tape at that point 12:12:39PM
14 because I'm not sure that this transcript - it puts a full 12:12:42PM
15 stop at the end of that sentence, and I'm not sure when 12:12:46PM
16 the tape was played that's actually the effect of what was 12:12:48PM
17 said in that conversation and it may well be that the way 12:12:51PM
18 this transcript is presenting what was actually said in 12:12:55PM
19 the conversation stops at that point, whereas it was 12:12:57PM
20 effectively a conversation that was run together into the 12:13:02PM
21 next line of the sentence. 12:13:04PM
22 MR TOVEY: That's a fair request, in our submission. 12:13:06PM
23 COMMISSIONER: Yes. 12:13:12PM
24 MR TOVEY: Are we able to go through - I'm sorry, we can only 12:13:14PM
25 play it from the beginning, but it's important that we 12:13:22PM
26 sort that out. 12:13:26PM
27 COMMISSIONER: It's not a long conversation. 12:13:27PM
28 (Audio recording played to the Commission.) 12:14:14PM
29 MR TOVEY: Could we stop there, please. So again 'nobody can 12:16:17PM

1 question the other'; you say you understood that to be 12:16:27PM
2 no-one can question the other person; is that 12:16:32PM
3 right?---I heard him say 'the other of your intent'. 12:16:36PM
4 'The other of'?---'Your intent'. So he was referring to this 12:16:40PM
5 situation, 'the other of your intent'. That's what he 12:16:47PM
6 said. 12:16:51PM
7 All right. In any event, you say so far as you were concerned 12:16:52PM
8 that was a totally legitimate conversation and wasn't 12:16:59PM
9 referring to anything inappropriate or any inappropriate 12:17:05PM
10 arrangement between you?---No. 12:17:08PM
11 Thank you. 12:17:14PM
12 COMMISSIONER: Mr Aziz, can we just go back to the beginning of 12:17:17PM
13 the conversation. What was it that you understood 12:17:20PM
14 Mr Nehme was telling you the purchasers or the prospective 12:17:27PM
15 purchasers wanted some comfort about?---From my 12:17:31PM
16 understanding, Commissioner, they were seeking an 12:17:36PM
17 understanding from the council that if they were to put 12:17:40PM
18 through a different planning application that proposed 12:17:44PM
19 different outcomes from the existing precinct structure 12:17:48PM
20 plan, that council would at least consider those concepts 12:17:54PM
21 so that they would actually be considered by council for 12:18:00PM
22 possible amendment or possible adoption at some date in 12:18:04PM
23 the future. 12:18:08PM
24 What possible reason could there be for council not considering 12:18:10PM
25 such a thing?---Often when there are existing precinct 12:18:15PM
26 structure plans that have taken months of work to compile, 12:18:21PM
27 often there is a flat 'no' from the council to say, 'No, 12:18:25PM
28 this is not in accordance with our precinct structure plan 12:18:30PM
29 because it presents a departure from what we believe 12:18:34PM

1 should happen.' But often people come to council with 12:18:37PM
2 good ideas that deserve consideration because they 12:18:41PM
3 actually deliver better outcomes. 12:18:44PM
4 So the purchaser was wanting to get some indication before 12:18:47PM
5 purchasing the property, was wanting to get some 12:18:53PM
6 indication as to what the council's attitude might 12:18:57PM
7 be?---Yes, to - - - 12:19:01PM
8 And did you commonly engage in that sort of interaction with 12:19:04PM
9 third parties and prospective purchasers, that if they 12:19:12PM
10 wanted some inside information as to what the council 12:19:16PM
11 might do if they purchased the land that you would provide 12:19:18PM
12 that information?---Not inside information, but they would 12:19:22PM
13 have - they would have accepted a letter in writing from 12:19:27PM
14 the director of planning, because it's not for me to write 12:19:30PM
15 the letter. But often councillors are the first port of 12:19:33PM
16 call for parties to seek that sort of assurance. 12:19:37PM
17 Would this property have had to be auctioned or by 12:19:43PM
18 tender?---No, it was sold already. This is a private sale 12:19:48PM
19 between two parties after it was sold by council. So this 12:19:52PM
20 was sold already. 12:19:57PM
21 So what was it that the purchaser was waiting on for the 12:19:59PM
22 purpose of getting comfort?---I think there was a 12:20:07PM
23 proposal, an existing proposal to put additional office 12:20:13PM
24 space on that site, and the purchaser was looking at a 12:20:17PM
25 different commercial mix, from my understanding, to 12:20:22PM
26 implement on that site. And so they were looking for 12:20:25PM
27 council to give them some sort of comfort that if they put 12:20:28PM
28 it through - a development application for a different 12:20:32PM
29 outcome other than office buildings that council would at 12:20:37PM

1 least consider that. 12:20:39PM

2 And if they didn't how would that affect the purchaser?---Well, 12:20:41PM

3 it may or may not have made them wish to either purchase 12:20:49PM

4 part of the site or the whole of the site. 12:20:54PM

5 I'm sorry, I thought you said they had already purchased 12:20:57PM

6 it?---They were looking to purchase it, from my 12:21:01PM

7 understanding. But they purchased it - sorry, Mr Nehme's 12:21:03PM

8 group, the person that he's representing purchased it 12:21:08PM

9 already from council some four years earlier, and they 12:21:12PM

10 were now looking to on-sell the land - - - 12:21:16PM

11 Correct. And that's what I put to you earlier. So the 12:21:19PM

12 prospective purchaser was looking for some comfort?---An 12:21:25PM

13 indication from council that they would at least consider. 12:21:29PM

14 And you would facilitate the provision of that form of comfort, 12:21:36PM

15 would you?---No. It's not up to me to do it. It's up to 12:21:44PM

16 me to initiate discussion - - - 12:21:48PM

17 No, no, you would facilitate the council providing that comfort 12:21:50PM

18 to a would-be purchaser?---No. I would - I can't 12:21:56PM

19 facilitate it because I can't force an officer to write a 12:22:04PM

20 letter of comfort. I can only get the officer and the 12:22:07PM

21 prospective purchaser to be talking, and then it's up to 12:22:11PM

22 the officer to make the decision as to whether they want 12:22:14PM

23 to do that or not. 12:22:17PM

24 All right. Let me use your language. You would be in the 12:22:18PM

25 background fighting to achieve that outcome?---I think 12:22:22PM

26 from a broader perspective of planning outcomes according 12:22:26PM

27 to the strategic plan. So have we got the right mix of 12:22:29PM

28 office space, commercial - - - 12:22:33PM

29 No, Mr Aziz, that's not what I'm asking you. I'm asking you 12:22:35PM

1 what you would do. You don't like the word 'facilitate' 12:22:39PM
2 so I'm going to the language you employed in the 12:22:46PM
3 conversation. You would fight in the background to enable 12:22:48PM
4 that comfort to be provided to the purchaser?---No, that's 12:22:51PM
5 not what I meant in that conversation, Commissioner. 12:22:56PM
6 All right. Yes, Mr Tovey. 12:22:59PM
7 MR TOVEY: I tender that conversation. 12:23:03PM
8 COMMISSIONER: That will be 272. 12:23:05PM
9 #EXHIBIT 272 - Audio recording and transcript of call between 12:23:09PM
10 Mr Aziz and Mr Nehme dated 09/01/19. 12:23:17PM
11 MR TOVEY: In May of 2018 you started receiving - sorry, in 12:23:25PM
12 June of 2018 you started receiving payments from Spicer 12:23:34PM
13 Thoroughbreds; is that the situation?---I believe so, yes. 12:23:50PM
14 And was it the case that at that stage you maintain that you 12:23:53PM
15 had come to some arrangement with Bernard Lee, Lorraine 12:24:04PM
16 Wreford's partner?---He approached me with a proposal to 12:24:10PM
17 establish an equine investment fund, and I accepted his 12:24:17PM
18 offer and the opportunity to consult for him, yes. 12:24:22PM
19 What did your consultancy involve or what was it to 12:24:26PM
20 involve?---It was to involve principally three things. 12:24:36PM
21 One is to set up the entire governance documentation for 12:24:40PM
22 this fund to be able to be legally established; two is to 12:24:45PM
23 access my network of business associates and contacts to 12:24:50PM
24 see if I could find investors to participate in the 12:24:57PM
25 investment fund; and, three, I would do all that based on 12:25:03PM
26 an investment prospectus that I would develop with data 12:25:08PM
27 that Mr Lee and his organisation would provide me. 12:25:10PM
28 All right. So was a prospectus in fact developed?---I was 12:25:14PM
29 working on one, but unfortunately the information I was 12:25:22PM

1 requiring from Spicers did not come through. 12:25:24PM

2 Are you saying then without a prospectus you tried to sell 12:25:30PM

3 shares to people?---How can I sell shares of something 12:25:37PM

4 that didn't exist yet? 12:25:43PM

5 So it never reached the stage where you were able to offer the 12:25:45PM

6 investment to anybody?---No. But I was able to at least 12:25:53PM

7 put the idea out there within my network of contacts. 12:25:56PM

8 And, sorry, Mr Tovey, I made secret of the fact on my 12:26:04PM

9 LinkedIn profile that that's what I was doing. 12:26:08PM

10 And what was the proposal? What was it that they were going to 12:26:12PM

11 be investing in?---So the proposal would be that an 12:26:15PM

12 investment fund would be established to buy racehorses 12:26:18PM

13 that had potential from overseas to race in Australia and 12:26:23PM

14 other destinations, and then for the investors to realise 12:26:29PM

15 their profits from the prize money that these horses would 12:26:35PM

16 win. 12:26:39PM

17 So what were you buying overseas? Were you buying broodmares 12:26:41PM

18 or stallions or were you buying ready to race horses, 12:26:50PM

19 yearlings, two year olds? What were you buying?---I think 12:26:56PM

20 the discussion initially was around yearlings, but the 12:27:00PM

21 scope was open to whatever Mr Spicer's organisation was 12:27:03PM

22 going to source, and that was part of the detail that 12:27:09PM

23 I was seeking in order to write a prospectus. 12:27:12PM

24 I just want to make this clear. There was some talk of buying 12:27:16PM

25 yearlings. So yearlings, if you buy a yearling you're 12:27:26PM

26 going to have to wait at least another year before they 12:27:32PM

27 can race; is that right? The earliest that they can race 12:27:35PM

28 is as a two-year-old?---I wasn't aware of that piece of 12:27:39PM

29 information, but I presume you're right. 12:27:46PM

1 I mean, who were the leading sires at this time, Mr Aziz?---The 12:27:50PM
2 leading who, sorry? 12:27:57PM
3 The leading sires?---I don't know. 12:27:58PM
4 Were you going to be buying from - so you were going to be 12:28:12PM
5 buying yearlings from Europe; is that right?---I think the 12:28:18PM
6 destinations that were being suggested were Hong Kong, 12:28:22PM
7 Japan, Europe, sometimes the United States. That's the 12:28:26PM
8 discussion that I had with the Spicer Group. 12:28:32PM
9 So is it fair to say then that the highest your knowledge ever 12:28:34PM
10 got was that there was a plan to buy yearlings from the 12:28:41PM
11 United States and all these other venues you've 12:28:48PM
12 mentioned?---No, we spoke about a whole heap of other 12:28:51PM
13 aspects of how this fund would operate, and we had several 12:28:54PM
14 meetings to discuss - - - 12:28:58PM
15 No, I just want to know what was it - what was the investment 12:29:00PM
16 as you understood it. We'll just take it step by step. 12:29:06PM
17 I don't want to rush you. So you were going to be buying 12:29:10PM
18 yearlings from countries overseas?---Yes. One of. One of 12:29:14PM
19 the pathways. 12:29:26PM
20 And what else?---Other types of or age of horses. The 12:29:29PM
21 operational decisions were going to be made by the Spicer 12:29:38PM
22 Group, not by me. All I was doing was putting together 12:29:41PM
23 the documentary support to enable them to undertake the 12:29:45PM
24 operation, and particularly in relation to accessing 12:29:50PM
25 potential future investors as well as ensuring that all 12:29:54PM
26 the regulatory requirements were met. That's what they 12:30:00PM
27 were seeking assistance for. 12:30:03PM
28 So your state of knowledge was that you really didn't know how 12:30:05PM
29 they were going to acquire their horses or what age they 12:30:12PM

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were going to be; you were more on the regulatory side?---The information about the acquisition of the horses is something that I discussed with them because I had indicated that that would be a very important piece of the puzzle when it comes to putting the prospectus together to give comfort to investors. So it was an ongoing discussion. But, like I said, unfortunately it was a short-lived consultancy because they got busy with the Spring Racing Carnival, and the information that I was seeking - and I was doing a lot of research for them, and the information that I was seeking to complete areas of lack of knowledge in my research wasn't forthcoming. So this is why the investment fund or at least my involvement as far as I know in the investment fund came to an end.

All I want to know is what it was from your perspective you were selling. Did you ever get to the stage where you had sufficient information to seek commitments from people you knew?---No.

COMMISSIONER: Mr Aziz, did you actually start the task of preparing a prospectus ?---I started, Commissioner, but it was incomplete with all the information that I was waiting for them to provide me with.

What was the corporate structure that was to be employed?---Well, I was supposed to be the executive chairman of this fund, and Mr Spicer and I believe Mr Lee were going to be the other two directors.

Of what?---Of the equine investment fund.

What was the structure? What was its legal nature?---It was going to be an investment fund to purchase racehorses and

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12:31:55PM
12:32:00PM
12:32:02PM
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12:32:24PM

1 to facilitate investors in buying shares in that 12:32:29PM
2 investment fund and getting their returns from the prize 12:32:35PM
3 winnings of those racehorses. 12:32:39PM
4 That means it was - the legal entity was going to be a 12:32:41PM
5 corporation?---It was going to be, from memory - I can't 12:32:46PM
6 remember if we actually agreed that far, but I think it 12:32:59PM
7 may have been a trust rather than a corporation. 12:33:03PM
8 You wouldn't be able to even commence on a prospectus without 12:33:09PM
9 the very first fundamental issue of resolving the nature 12:33:15PM
10 of the entity that would be running the investment?---Yes, 12:33:19PM
11 but that was part of the mix of discussions. But my 12:33:26PM
12 initial task was to gather as much information as 12:33:32PM
13 I can - - - 12:33:36PM
14 About what?---About how the returns were to be distributed, how 12:33:36PM
15 much it would cost to actually acquire a certain number of 12:33:44PM
16 racehorses, what assurances can be given to investors 12:33:49PM
17 about the performance of those racehorses, where they 12:33:53PM
18 would be housed in Australia, where they would be trained, 12:33:57PM
19 a whole heap of logistical matters that we were 12:34:00PM
20 continuously discussing over several meetings in that five 12:34:03PM
21 months period in which I was part of the consultancy. 12:34:07PM
22 And you thought you could do that without knowing the form the 12:34:13PM
23 entity would take?---No, I wanted to do that after knowing 12:34:18PM
24 other details, and that was all part of our ongoing 12:34:25PM
25 discussions and monthly meetings. But, like I said, they 12:34:29PM
26 were distracted unfortunately by the Spring Racing 12:34:34PM
27 Carnival in that year and a lot of - and I don't think 12:34:38PM
28 they were investment ready themselves. A lot of the 12:34:40PM
29 information that I ended up not getting slowed me in my 12:34:43PM

1 task. I did a lot of research. I looked at similar 12:34:48PM
2 opportunities abroad. I took advice from some friends of 12:34:51PM
3 mine in the financial industrial about some of the 12:34:59PM
4 regulatory requirements. That was all part of the 12:35:01PM
5 preparatory work that I was trying to do for them. But, 12:35:03PM
6 as I said, I wasn't able to continue on because of the 12:35:06PM
7 lack of information that wasn't forthcoming. 12:35:09PM
8 Yes, Mr Tovey. 12:35:14PM
9 MR TOVEY: Did you get paid nevertheless throughout the Spring 12:35:22PM
10 Racing Carnival?---Yes, the agreement was a monthly fee 12:35:26PM
11 initially that was set quite low because of the infancy of 12:35:29PM
12 the work. But it didn't stop me from continuing on the 12:35:35PM
13 research that I was doing because I had no operational 12:35:40PM
14 involvement in the Spring Racing Carnival, unlike of 12:35:46PM
15 course the Spicer Group. 12:35:49PM
16 Was a fund actually established?---No. 12:36:01PM
17 Was there a bank account for a fund?---No. 12:36:16PM
18 So, other than the documents that you sought to put together 12:36:30PM
19 but couldn't put together because you didn't have 12:36:36PM
20 sufficient information, was there anything else you were 12:36:39PM
21 able to do by way of consulting?---It was mainly all the 12:36:43PM
22 research that I was doing in the background based on the 12:36:50PM
23 instructions I was getting from meetings with the Spicer 12:36:53PM
24 Group. 12:36:59PM
25 Who in the Spicer Group were you meeting with?---I met with 12:36:59PM
26 Mr Lee; is it Bernard Lee? I met with Mr Brad Spicer. 12:37:05PM
27 And I met with another gentleman, I believe his first name 12:37:12PM
28 is Mick, and I'm just trying to recall his surname. 12:37:17PM
29 I believe - I think his surname might be Sharkie. I'm not 12:37:23PM

1 sure. But I met with those three individuals on at least 12:37:28PM
2 three occasions, and I met with Mr Lee monthly. And we 12:37:35PM
3 also had various conversations and email exchanges. 12:37:44PM
4 Did it ever get to the stage where you had sufficient 12:37:54PM
5 information to seek investors or to put proposals out 12:37:59PM
6 there to investors or potential investors?---No, we were 12:38:04PM
7 miles from that, Mr Tovey. My number one concern about 12:38:09PM
8 that was the fact that you needed to have regulatory 12:38:18PM
9 approval for any structure that you put in place before 12:38:21PM
10 you can go out to the investment market. 12:38:23PM
11 So you weren't at that stage, at any stage, in a position to 12:38:26PM
12 introduce people to the investment potentials that might 12:38:32PM
13 be on offer?---I was able to introduce them to the 12:38:36PM
14 concept, but not to anything that they could physically 12:38:40PM
15 invest in. I did also have a conversation with the people 12:38:42PM
16 that used to do my stockbroking to let them know that such 12:38:48PM
17 a proposal was actually being worked on and whether or not 12:38:52PM
18 it's something that they would be keen to take on board, 12:38:55PM
19 and they said they would have a look at it, but they would 12:38:59PM
20 only do that once I had firmed up the documentation that 12:39:03PM
21 I needed to satisfy them of the probity of the investment 12:39:05PM
22 and the security for whoever was going to invest from 12:39:12PM
23 people that they may introduce. 12:39:16PM
24 When you gave evidence last time at page 37 you indicated - and 12:39:28PM
25 this is at the bottom of page 36 - 'So Spicer 12:39:42PM
26 Thoroughbreds established the fund and they set up a 12:39:51PM
27 governance board to manage the fund, and they have asked 12:39:54PM
28 me to chair the board' - this is your answer, I'm sorry - 12:39:59PM
29 'and to explore with my network opportunities for 12:40:04PM

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investors of both institutional and mum and dad type
investors that would consider contributing to the fund and
growing the fund. They had many successes with acquiring
foreign thoroughbred racehorses that had won major stakes,
particularly in Victoria, and they felt that there was a
real opportunity to actually grow this business
opportunity, and they have basically asked me to come on
board.' Is that what you said?---Apparently. I can't
recall. But, if you've read it, yes.

So was the concept to buy horses that had won major
stakes?---Like I said, Mr Tovey, that was one stream of
assets that they were looking to acquire. But there were
also other considerations such as buying yearlings that
have had genetic success, if you like, in terms of
parentage winning major races and growing those or
training those in Victoria and then racing them. So there
was a combination of things that were being talked about
and considered.

So one of the aspects of your work was going to be seeking to
find investors; is that right?---Putting the prospectus
out to my network, yes, and talking to potential investors
about it.

And this was going to take place even though you knew nothing
about horses?---When I said I knew nothing about horses
I said I knew nothing about gambling on horses. But as a
general investment concept I understand it very well, and
it doesn't take me long to research something and really
get on top of it.

You had no association with horses, I take it, at this

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1 stage?---At that stage, no. 12:42:16PM

2 And why was it that you were approached?---Like I said 12:42:21PM

3 previously, Mr Tovey, I made a presentation about the 12:42:28PM

4 investment attraction we're trying to create in China, and 12:42:33PM

5 Mr Lee was impressed by the presentation and he approached 12:42:38PM

6 me at a function while I made that presentation and said, 12:42:42PM

7 'I know you have a background in governance and certainly 12:42:49PM

8 in terms of your work on boards and councils. So we're 12:42:52PM

9 thinking of this concept. I need to have a chat to you 12:42:55PM

10 about it and talk to you about it,' and that's when I met 12:42:57PM

11 with him. And it excited me because it was new and it was 12:43:00PM

12 ground breaking. And, again, even though it had nothing 12:43:04PM

13 to do with my role as a councillor, it would also 12:43:08PM

14 contribute to the local economy of the City of Casey 12:43:12PM

15 because of the racing infrastructure that we've got there. 12:43:15PM

16 Wasn't it the case, really, that you were introduced to this by 12:43:19PM

17 Ms Wreford?---Not Ms Wreford, but her partner. 12:43:30PM

18 Are you saying that it was just a coincidence then that Mr Lee 12:43:35PM

19 happened to be Ms Wreford's partner?---I'm not sure 12:43:45PM

20 I understand the question. 12:43:51PM

21 What I'm suggesting to you or what I'm asking you is did 12:43:53PM

22 Ms Wreford have anything to do with this?---No. 12:43:59PM

23 Did she have any role to play at all?---Not as far as I'm 12:44:02PM

24 aware, no. 12:44:06PM

25 See, I mean, you knew Ms Wreford as a lobbyist for Mr Woodman; 12:44:07PM

26 right?---I knew she was doing some consulting for 12:44:19PM

27 Mr Woodman, but I didn't know the extent of their 12:44:23PM

28 relationship, yes. 12:44:25PM

29 Did you know anything about her at that stage other than that 12:44:26PM

1 she was a lobbyist for Mr Woodman?---I had served with 12:44:32PM
2 Ms Wreford as my ward partner in the City of Casey. 12:44:37PM
3 Yes, but what did you - if you knew her - so you knew her 12:44:40PM
4 pretty well, did you?---I knew her as a finance broker. 12:44:45PM
5 I knew her as someone who was doing odd consulting work 12:44:50PM
6 after she left or was defeated in politics in 2014. 12:44:55PM
7 Yes?---And I had met her and Mr Lee at various functions and 12:45:00PM
8 I saw them together. 12:45:05PM
9 Yes?---But in this endeavour of setting up the equine fund 12:45:07PM
10 sometimes I wouldn't be able to get in touch with Mr Lee 12:45:13PM
11 and I would contact Ms Wreford, and she would say to me, 12:45:16PM
12 'I don't know anything about this. It's best that you 12:45:22PM
13 speak to Bernard.' So that was me chasing up documents or 12:45:24PM
14 trying to get things accelerated for the fund. 12:45:30PM
15 Hold on. So you did contact her about this; this is what 12:45:35PM
16 I want to ask you?---Once. Once or twice. It wouldn't be 12:45:38PM
17 more than - - - 12:45:43PM
18 Sorry, what were the circumstances of contacting Ms Wreford, 12:45:44PM
19 who has told us that at that stage she was working as a 12:45:47PM
20 consultant and Mr Woodman was her only client? What was 12:45:53PM
21 the reason you were contacting Ms Wreford during this 12:46:00PM
22 period of time that you were receiving money from 12:46:03PM
23 Spicers?---Because I couldn't get in touch with her 12:46:07PM
24 boyfriend, Mr Lee. So I was saying, 'I can't get in touch 12:46:10PM
25 with Bernard. I need these documents to get the work that 12:46:15PM
26 we've agreed we would do. Could you talk to him or chase 12:46:18PM
27 him up and say' - - - 12:46:21PM
28 Didn't he have an email address?---Yes, and I'd send him emails 12:46:23PM
29 and leave him messages on his phone, and sometimes he 12:46:27PM

1 would not get back to me. And so I generally like when 12:46:30PM
2 I commit to something to actually finish it. So I was 12:46:35PM
3 chasing it up. 12:46:38PM
4 Through Ms Wreford?---Once or twice maybe. But it's always 12:46:39PM
5 with Mr Lee. 12:46:46PM
6 Did you have any arrangement with Ms Wreford in respect of your 12:46:47PM
7 fee arrangements?---I don't recall that, no. I recall 12:46:52PM
8 everything was negotiated with Mr Lee and the contracts 12:46:58PM
9 were signed with Mr Lee and the appointment instruments 12:47:02PM
10 were signed with Mr Lee. 12:47:06PM
11 Did she have any part in any fee arrangement that you 12:47:07PM
12 had?---Not to the best of my knowledge, no. 12:47:22PM
13 COMMISSIONER: Could I just ask, Mr Aziz, when Mr Lee 12:47:32PM
14 approached you on the occasion of your presentation 12:47:35PM
15 concerning investment in China did you know at that stage 12:47:39PM
16 that there was an association between Mr Lee and 12:47:46PM
17 Ms Wreford?---Of course, yes. 12:47:50PM
18 So you already knew Mr Lee at that point, did you?---As I said 12:47:57PM
19 to Mr Tovey, I had met him at a number of functions 12:48:02PM
20 previously, yes. 12:48:05PM
21 And yet you're quite certain now that the introduction to this 12:48:08PM
22 proposal came through Mr Lee, are you?---Most definitely. 12:48:16PM
23 I recall the circumstances quite vividly, Commissioner. 12:48:26PM
24 As I was walking back from the stage he got up from his 12:48:31PM
25 table and came towards me and intercepted me and said, 12:48:34PM
26 'That was a great presentation. I've got this concept 12:48:37PM
27 that I want to have a talk to you about. I think it's a 12:48:41PM
28 great idea. But I need you to work on it for me.' 12:48:44PM
29 I said, 'Let's catch up. I'm happy to hear it.' That's 12:48:47PM

1 when he introduced me to the concept of the equine 12:48:51PM
2 investment fund. 12:48:54PM
3 You told the Commission on the last occasion that you gave 12:48:54PM
4 evidence that you were introduced to the Spicer Group 12:48:58PM
5 through Lorraine?---I may have meant that at the functions 12:49:02PM
6 that I had previously attended, which may have been racing 12:49:10PM
7 functions, that Ms Wreford had introduced me to Brad 12:49:13PM
8 Spicer and then said, 'This is the gentleman that Bernard 12:49:18PM
9 is working with,' her fiance or boyfriend or partner or 12:49:24PM
10 whatever. But I recall seeing Ms Wreford and members of 12:49:29PM
11 the Spicer organisation at various functions, not only 12:49:35PM
12 racing functions but various functions. 12:49:40PM
13 But that means, if what you've just told me is correct, then 12:49:43PM
14 Lorraine didn't introduce you to the Spicer Group; you 12:49:49PM
15 were already pursuing such an arrangement with 12:49:54PM
16 Mr Spicer?---No, my formal arrangements with the Spicer 12:49:57PM
17 Group came through the approach by Mr Lee, not by anything 12:50:02PM
18 that Ms Wreford had done previously. 12:50:04PM
19 So it was incorrect to say on the last occasion that Lorraine 12:50:07PM
20 introduced you to the Spicer Group?---It would have been 12:50:12PM
21 incorrect because the introduction I meant then was more 12:50:16PM
22 like a social introduction, rather than a working - - - 12:50:21PM
23 Yes, Mr Tovey. 12:50:26PM
24 MR TOVEY: Lorraine Wreford has given evidence and she said 12:50:30PM
25 that the payments to you, the arrangement that you had 12:50:38PM
26 with Spicer Thoroughbreds was a vehicle to funnel money 12:50:45PM
27 between Mr Woodman and yourself; is that the 12:50:51PM
28 case?---Absolutely not. 12:50:59PM
29 I think you've already told me you had no idea that Mr Woodman 12:51:01PM

1 was involved with Spicers; is that right?---That's right. 12:51:04PM
2 She said that it was your idea?---Sorry, my idea to do what? 12:51:12PM
3 To use Spicers as a way of funneling money from Woodman to 12:51:25PM
4 you?---No, it wasn't my idea. 12:51:29PM
5 Did you have some falling out with her at some 12:51:34PM
6 stage?---I thought we were friends until I read in the 12:51:41PM
7 media the ridiculous evidence that she gave to your last 12:51:43PM
8 hearing, yes. 12:51:47PM
9 This followed upon you meeting her immediately after you had 12:51:48PM
10 finished evidence and talking about needing to cover up 12:51:54PM
11 the fact that - sorry, the need for Mr Woodman to support 12:52:01PM
12 you in your assertion that you had only paid \$370,000 when 12:52:05PM
13 you brought the suitcase?---No, I spoke to her about the 12:52:11PM
14 evidence that I gave to the Commission on the day, and 12:52:16PM
15 I said I said that to be consistent with what I did at my 12:52:18PM
16 mediation, and that's the only thing that was said to her. 12:52:21PM
17 So - - - 12:52:25PM
18 I mean, here you are then she says that you - and I know you 12:52:26PM
19 deny this, but she has told us that in that meeting you 12:52:30PM
20 told her you had lied to the Commission. The matters that 12:52:34PM
21 have been brought to your attention make it crystal clear 12:52:44PM
22 that you did lie to the Commission, given your current 12:52:46PM
23 story. Are you saying she just made that up?---I can't 12:52:51PM
24 speak for her, but I'm disappointed in what she has said; 12:52:56PM
25 extremely disappointed. 12:53:00PM
26 But she couldn't have known at that stage that you had lied to 12:53:03PM
27 the Commission, could she, unless you had told her?---She 12:53:07PM
28 was well aware of the arrangements that I had with 12:53:12PM
29 Mr Woodman from the beginning. She was aware not of 12:53:14PM

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intricate details but certainly of the global figure that
was invested with him. So obviously if I told her that
I mentioned to the Commission that it was only 370,000 to
be consistent with my matrimonial settlement then she
would have interpreted that in whatever way she wanted.
Commissioner, I think you know that I have had direct
relationships with Mr Woodman before and after the Spicer
thoroughbred opportunity. Sorry, was my question heard?

COMMISSIONER: Yes, I'm sorry, what are you wanting to do,

Mr Aziz?---I'm simply wanting to point out that I don't
need a funnel or a third arrangement to have a commercial
relationship with someone that I've already demonstrated
I have direct commercial relationships with.

Yes, I'm not sure that I follow the point you're wanting to
make. I'm not sure that you've been asked this, but if
you haven't I would like to know clearly what your
position is. Why was it necessary for you to say to
Ms Wreford - this is your account. Why was it necessary
to tell Ms Wreford that you had given evidence to IBAC
about receiving - about giving Mr Woodman \$370,000 because
that's consistent with what you're saying in your Family
Court proceedings? Why did you need to tell Ms Wreford
that?---Because I knew that I would be travelling shortly,
and I wanted to make sure that neither her or Mr Woodman
thought that I was going to say anything untoward other
than what physically did occur between us and some of the
discussions we had and some of the agreements we thought
about pursuing between the both of us. That's all.
I just wanted to be clear on that aspect with her so that

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there are no surprises for them.

But if what you told the Commission was the truth presumably you had no reason to think that either Ms Wreford or Mr Woodman would do other than tell the truth too?---At the moment, Commissioner, or back then, rather, and certainly at the moment I was in a great deal of emotional distress because of everything that had happened, and I didn't know what the outcome of this matter was going to be, and I just felt that I was basically in the path of a train and I just sought to ensure that any damage or any fall-out out of this matter would be minimised. So, given what happened at my divorce proceedings and given what I knew the Commission had as information that they seized, which was the contract for the \$600,000, I just wanted to clarify that aspect with Ms Wreford.

None of that makes any sense, Mr Aziz. You told the Commission - you told the Commission - sorry, let me ask you a different question. Do you now remember what you told the Commission last year?---I have seen it in transcripts, Commissioner.

So if you told the Commission the truth why did you need to say anything to Ms Wreford which you then expected would be passed on to Mr Woodman?---Because I wasn't sure if what I had said that day to the Commission was actually the right thing to do. I felt that I had an imperative to do it, again to be consistent with what was accepted at my divorce proceedings, but I wasn't sure of the ramifications of it. And if you recall, Commissioner, I was called into that hearing within an hour's notice,

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didn't get an opportunity to get legal advice even though you kindly offered for me to do so, but it all happened so quickly and I just did not understand the process nor what it was leading to. So I simply repeated what I had said, especially that I believed that Ms Wreford may have possibly been aware that there was a second contract that was requested through Mr Woodman for \$370,000.

I've already pointed out I have reviewed the transcript of your evidence and you must have said as many as 10 times in different ways, Mr Aziz, that you only paid Mr Woodman \$370,000. And each time you've been asked since the public hearings have commenced you have not once said, 'What I told the Commission was false.' What you've said on each occasion was, 'What I've told the Commission was intended to be consistent with what I said in the Family Court proceedings.' But why can't you simply acknowledge the fact, Mr Aziz, that what you told the Commission last year and what you said in the Family Court proceedings was false, that you didn't just give Mr Woodman \$370,000, you gave him \$600,000?---With respect, Commissioner, I have already conceded that.

No, you haven't?---I have, and I further said, sir, if you allow me just 30 seconds - - -

No, no, I just want to know - I want to be clear on the record.

You concede now that what you told the Commission and what you presented to the Family Court was false, that you did not give Mr Woodman 370,000, you gave him 600,000?---I conceded that on Monday.

You agree that was false, do you?---Yes, on Monday I gave you

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that information.

And now I'm trying to understand why you then found it necessary to speak to Ms Wreford for the purpose of information then being passed to Mr Woodman about that false evidence?---Because I wasn't sure what was happening to me and I needed to speak to someone to say, 'This is what has happened. I can't reverse that now. But this is what has happened. And it has happened because I wanted to be consistent with the outcomes achieved through the divorce settlement.' That is all that I said to Ms Wreford as far as I can recall during that meeting. And I was under an enormous amount of emotional distress. And I think anyone can understand that given the way that I was hauled in the morning into the Commission to give evidence, didn't get an opportunity to obtain legal representation, and accordingly I wasn't sure what I could possibly say and not say in order to satisfy that aspect of it.

I think you've acknowledged a few moments ago you were given an opportunity to get legal advice, and your position was that you didn't find that necessary?---In reality, Commissioner, that was an opportunity presented but could not be taken up because you asked me to attend your offices within an hour of being presented with the notice to appear. How could I have obtained legal advice? How could I have researched which lawyers were able to represent me? I wasn't given the opportunity in real terms, but of course in tokenistic terms I was given the opportunity.

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1 And then, Mr Aziz, whilst in that state of distress whilst 01:02:01PM
2 giving evidence you say you went on not merely to tell the 01:02:08PM
3 lie that you had only given Mr Woodman 370,000, but you 01:02:12PM
4 went on to tell the lie as to what you had done with 01:02:18PM
5 the balance of the cash, didn't you?---I don't believe it 01:02:21PM
6 was a lie - - - 01:02:28PM
7 You went on to say that the balance, \$230,000, was not given to 01:02:30PM
8 Mr Woodman; it was given to Mr Nehme?---\$230,000 was 01:02:36PM
9 certainly returned to Mr Nehme, but whether that came from 01:02:42PM
10 that money or not - I mean, they're my private financial 01:02:46PM
11 circumstances - - - 01:02:50PM
12 No, Mr Aziz, Counsel Assisting in the private examination said, 01:02:51PM
13 'What happened to the balance of the 600,000 that you 01:02:58PM
14 withdrew in cash,' and your answer on oath was, 'I gave 01:03:02PM
15 that money to Mr Nehme'?---There was definitely cash given 01:03:07PM
16 to Mr Nehme to satisfy the debt that I owed to him. 01:03:14PM
17 Whether it came from that specific pool or from some other 01:03:17PM
18 pool of money, I couldn't recall, Commissioner, because 01:03:21PM
19 I was, like I said, under enormous emotional distress and 01:03:25PM
20 I needed to pay off my debts before I could move on to the 01:03:30PM
21 next stage of my life. 01:03:33PM
22 Yes, Mr Tovey. 01:03:41PM
23 MR TOVEY: Mr Aziz - - - 01:03:42PM
24 MR RUBENSTEIN: I notice the time. I'm wondering whether 01:03:44PM
25 that's an appropriate time. 01:03:46PM
26 COMMISSIONER: Yes, I think it is, Mr Rubenstein. We'll 01:03:48PM
27 adjourn until 1.45. 01:03:51PM
28 MR RUBENSTEIN: Mr Commissioner, Mr Peck will be here this 01:03:54PM
29 afternoon in my place. 01:03:56PM

1 COMMISSIONER: Very good.

01:03:59PM

2 MR RUBENSTEIN: Thank you.

01:04:00PM

3 <(THE WITNESS WITHDREW)

01:04:03PM

4 LUNCHEON ADJOURNMENT

01:04:07PM

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