

---

TRANSCRIPT OF MORNING PROCEEDINGS

---

WARNING - CONTAINS LAWFULLY INTERCEPTED INFORMATION AND INTERCEPTION WARRANT INFORMATION.

These documents contain information as defined within ss 6E and s 6EA of the Telecommunications (Interception and Access) Act 1979 (Cth) (TIA Act). It is an offence to communicate to another person, make use of, or make a record of this information except as permitted by the TIA Act. Recipients should be aware of the provisions of the TIA Act.

WARNING - CONTAINS PROTECTED INFORMATION.

These documents contain 'protected information' within the meaning of s 30D of the Surveillance Devices Act 1999 (Vic) (SD Act). It is an offence to use, communicate or publish this information except as permitted by the SD Act. Recipients should be aware of the provisions of the SD Act.

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

TUESDAY, 24 NOVEMBER 2020

(34th 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: 09:45:37AM  
2 <EXAMINED BY MR TOVEY, continued: 09:45:41AM  
3 COMMISSIONER: Are we ready to proceed? Mr Peck? Very good. 09:49:14AM  
4 Yes, Mr Tovey. 09:49:22AM  
5 MR TOVEY: Could the witness please be shown court book page 09:49:34AM  
6 1268, which is exhibit 152. 09:49:43AM  
7 COMMISSIONER: Mr Tovey, just for the record my last exhibit 09:49:54AM  
8 number was 288 and that related to a conversation of 09:49:58AM  
9 30 January between Mr Aziz and Ms Wreford. You've since 09:50:03AM  
10 then referred to a wide range of documents and 09:50:10AM  
11 conversations, but I take it none of them are tendered as 09:50:14AM  
12 exhibits because they were already exhibits; is that the 09:50:19AM  
13 position? 09:50:22AM  
14 MR TOVEY: That's so, yes. Certainly that's as I understand 09:50:24AM  
15 it, sir. 09:50:29AM  
16 COMMISSIONER: Very good. 09:50:31AM  
17 MR TOVEY: Thinking back, there have been some occasions where 09:50:44AM  
18 I've simply mentioned court book numbers for transcript 09:50:46AM  
19 purposes without going to the documents themselves, so if 09:50:49AM  
20 we're going back to it we know what we're speaking about. 09:50:52AM  
21 So could you look, please, at 1268 and that is a notice of 09:50:59AM  
22 motion, is it not, seeking to introduce an item of urgent 09:51:09AM  
23 business on 4 February of 2014?---Yes. 09:51:16AM  
24 And is that an item of urgent business that's moved by 09:51:22AM  
25 you?---Yes. 09:51:29AM  
26 And what you're wanting to do is validate their request for 09:51:31AM  
27 council to consider the possibility of preparing an 09:51:35AM  
28 amendment to the PSP, is that right?---Yes. 09:51:38AM  
29 And so that was the rezoning that you'd been provided with 09:51:42AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

information by Mr Woodman about?---Yes.  
So insofar as you want to validate their request to council,  
there was a problem with that, wasn't there?---There was  
no problem. This is the usual process for starting a  
consideration of a council business item.  
And what request was this, the request to council that you're  
talking about? Had they made application to the council  
for a rezoning?---They made an approach to me if council  
would consider the rezoning and - - -  
I just want to get this straight. So what's happened here is  
that there is no request to council made, that is there is  
no request to the council. There is an email involving  
you three councillors, Ablett, Aziz, Stapledon, and it's  
on the basis of that email, without telling any other  
councillor what's going on, you move an item of urgent  
business to consider - sorry, to consider the  
application?---Once again, that is not unusual business  
practice as it was in the City of Casey.  
Okay. I mean, you're seriously suggesting that people can,  
without making an application to council, email one  
councillor perhaps, just yourself, you introduce an item  
of urgent business without notice to anybody, and that is  
a valid method of moving forward with a planning  
application?---Yes, and that happens all the time. That's  
the point of having notices of motion by councillors.  
If that is the case, sir, it's certainly not something which  
can be tolerated, is it, by a community which wants  
transparency in planning applications?---There is nothing  
to do with transparency in this method because all it is

09:51:52AM  
09:51:56AM  
09:52:04AM  
09:52:09AM  
09:52:18AM  
09:52:22AM  
09:52:26AM  
09:52:29AM  
09:52:35AM  
09:52:39AM  
09:52:42AM  
09:52:46AM  
09:52:52AM  
09:52:58AM  
09:53:02AM  
09:53:06AM  
09:53:13AM  
09:53:19AM  
09:53:25AM  
09:53:33AM  
09:53:37AM  
09:53:40AM  
09:53:45AM  
09:53:48AM  
09:53:51AM  
09:53:54AM  
09:53:57AM  
09:54:00AM  
09:54:04AM

1 is a beginning of an investigation by the officers whether 09:54:08AM  
2 a proposal is valid or not. It's the officers that make 09:54:12AM  
3 that determination. 09:54:14AM  
4 Following this, did you assist Mr Kenessey and Ms Schutz in 09:54:15AM  
5 their interactions with council officers while the issues 09:54:25AM  
6 relating to the rezoning were being discussed?---Not my 09:54:30AM  
7 recollection. I had very little to do with either of 09:54:34AM  
8 those people when this was put forward back in 2014. 09:54:36AM  
9 All right. In any event, as we've already indicated, you 09:54:41AM  
10 continued to vote on numerous occasions as this progressed 09:54:45AM  
11 without ever declaring a conflict; is that right?---That's 09:54:54AM  
12 the point of the officers' recommendations, yes, as this 09:54:57AM  
13 progressed. 09:55:00AM  
14 And you were entitled to do that although you were receiving 09:55:00AM  
15 various forms of financial - sorry, despite the fact you 09:55:04AM  
16 had various forms of financial connections with Mr Woodman 09:55:09AM  
17 during much of that period?---The first financial 09:55:13AM  
18 commitment began in April/May 2017 and this was three 09:55:18AM  
19 years earlier. 09:55:21AM  
20 Well, after that at least you agree that you had financial 09:55:22AM  
21 transactions almost constantly with Mr Woodman?---I made 09:55:28AM  
22 that concession yesterday, Mr Tovey. 09:55:33AM  
23 I now want to move on to H3. It's apparent from what you've 09:55:38AM  
24 told me yesterday that you are familiar with what the 09:55:54AM  
25 Commission has previously looked at and the numerous 09:56:00AM  
26 conversations and interactions which have taken place 09:56:04AM  
27 between Mr Woodman and Ms Schutz around the time of votes 09:56:08AM  
28 on H3. They are matters that you've been referred to in 09:56:12AM  
29 preparation?---No, I haven't seen those communications. 09:56:18AM

1 Well, you were certainly aware when I was talking to you 09:56:22AM  
2 yesterday of communications between yourself and both 09:56:26AM  
3 Mr Ablett and Ms Schutz during votes; is that 09:56:30AM  
4 right?---Because I received those communications directly 09:56:35AM  
5 on my telephone. 09:56:37AM  
6 Yes. And you saw nothing wrong with that; is that your 09:56:39AM  
7 position?---We covered this yesterday, and I said that it 09:56:44AM  
8 is also standard practice for community members, whoever 09:56:49AM  
9 they may be, to correspond with a councillor during a 09:56:54AM  
10 council meeting or during a debate to provide their advice 09:56:58AM  
11 on how they see matters. However, in the end the 09:57:03AM  
12 councillor makes up their own mind as to what to present, 09:57:07AM  
13 and that's exactly what I did on that occasion. 09:57:11AM  
14 You ended up voting, didn't you, and indeed making proposals 09:57:13AM  
15 and speeches about H3 issues in circumstances where you 09:57:19AM  
16 barely understood what it was that Mr Woodman was 09:57:25AM  
17 requesting of you?---No, I understood the issue very 09:57:27AM  
18 clearly. I may not have understood what Ms Schutz and 09:57:31AM  
19 Mr Woodman wanted me to do, but I understood what needed 09:57:34AM  
20 to be done for the benefit of the community. 09:57:39AM  
21 And what was that? We've heard from Ms Schutz that this was of 09:57:42AM  
22 personal interest to Mr Woodman, I think to use her words, 09:57:50AM  
23 wrapped up in a community safety issue. Would you agree 09:57:54AM  
24 with that?---No, because it was presented to me as a 09:57:57AM  
25 community safety issue. 09:57:59AM  
26 Sorry, where was the intersection which was the subject of 09:58:03AM  
27 these votes?---I can't recall exactly. Like I said, there 09:58:07AM  
28 were many matters, but it was around Hall Road where there 09:58:15AM  
29 had been two fatalities already in the vicinity of that 09:58:23AM

1 area and that intersection where it would relieve the 09:58:27AM  
2 traffic. 09:58:32AM  
3 What was the relevance of this intersection in respect of an 09:58:33AM  
4 issue relating to traffic on Hall Road; do you remember 09:58:41AM  
5 that?---Yes, it would have created an additional entrance 09:58:45AM  
6 to an estate and accordingly (indistinct) movement during 09:58:48AM  
7 peak times. It was going to be a signalised intersection. 09:58:53AM  
8 So was this in Hall Road or somewhere else?---I can't recall. 09:58:58AM  
9 In any event, if I can just take you through it. In the 09:59:06AM  
10 lead-up to the council meeting where this was first moved, 09:59:13AM  
11 Ms Schutz and Mr Ablett worked together to draft an 09:59:20AM  
12 alternative - an alternate recommendation to put to 09:59:26AM  
13 council which they then referred to you; is that 09:59:30AM  
14 correct?---Possibly. Again, I can't recall the mechanics 09:59:35AM  
15 of how this all happened. 09:59:41AM  
16 And Schutz drafted the wording, the wording was sent to you, 09:59:44AM  
17 and that was the alternative motion that you introduced on 09:59:50AM  
18 4 September 2018; do you accept that?---I accept that 09:59:54AM  
19 I was liaising with Ablett in his capacity as the mayor of 10:00:00AM  
20 the day, and he had just given me the additional portfolio 10:00:03AM  
21 of roads leading up to the State election and so it is 10:00:08AM  
22 possible that I may have obtained that wording from him, 10:00:13AM  
23 yes. 10:00:16AM  
24 And you knew it had come from Megan Schutz because it was 10:00:17AM  
25 apparent from your conversations with both Ablett, Schutz 10:00:21AM  
26 and with the correspondence at the time?---It would have 10:00:25AM  
27 been a natural conclusion to assume so because obviously 10:00:30AM  
28 they had an interest in this intersection. 10:00:34AM  
29 And by the time the alternative resolution which was provided 10:00:37AM

1 by Schutz was moved as a motion on 4 September of 2018 in 10:00:45AM  
2 the council, you sought to rely on what you claimed to be 10:00:49AM  
3 legal advice, that that was a legal move that you were 10:01:01AM  
4 making in front of the council; is that so?---Yes, they 10:01:05AM  
5 advised me that there was legal opinion that backed the 10:01:10AM  
6 position that the mayor of the day was proposing to me. 10:01:13AM  
7 Now, what was happening was that the effect of the resolution 10:01:17AM  
8 you were moving was to require Dacland to pay the full 10:01:28AM  
9 cost of the construction of that intersection, wasn't 10:01:33AM  
10 it?---I don't recall that being the case. The cost was 10:01:41AM  
11 not something that I ventured into as to where the 10:01:45AM  
12 liability lies. I think I said previously in evidence 10:01:49AM  
13 that we were approaching a State election and there was 10:01:55AM  
14 money on the table from the government in relation to road 10:01:57AM  
15 upgrades, and that's the basis upon which I moved that 10:02:00AM  
16 motion to accelerate the process - - - 10:02:05AM  
17 Look, Mr Aziz, I'm not going to be going back to this. The 10:02:08AM  
18 motion was a motion that Dacland pay for the 10:02:12AM  
19 intersection?---I don't recall the wording of the motion, 10:02:17AM  
20 Mr Tovey. 10:02:19AM  
21 Was that the effect of it, or don't you even know?---I don't 10:02:20AM  
22 recall the cost being in any of my considerations when 10:02:25AM  
23 I moved this. 10:02:29AM  
24 I suggest to you you'd have to be acutely aware of that because 10:02:29AM  
25 you were immediately advised that there was going to be a 10:02:35AM  
26 notice to rescind on the basis that it was illegal because 10:02:39AM  
27 it put a huge cost on Dacland that they hadn't even been 10:02:41AM  
28 notified about?---No, that is not true, because that 10:02:46AM  
29 opinion was not validated in terms of the illegality that 10:02:49AM

1           you allege and I was frustrated because I wasn't getting           10:02:55AM  
2           the legal advice that they had alluded to that was           10:02:59AM  
3           explained to me - - -           10:03:02AM  
4    I'm not asking you what the process was.    I'm simply saying           10:03:03AM  
5           that the issue of the unfairness to Dacland being made to           10:03:06AM  
6           pay was the issue which was the focus of legal advice as           10:03:11AM  
7           to the legality of your initial motion?---Unfairness           10:03:15AM  
8           doesn't come into planning considerations, Mr Tovey.           10:03:25AM  
9    Fairness doesn't come into it?    I didn't ask you that, did I?           10:03:29AM  
10           But, look, we'll move on?---It's to do with community           10:03:34AM  
11           safety.           10:03:37AM  
12    I didn't ask you any of that.    All I wanted to know is what           10:03:37AM  
13           happened, but you seem reluctant to want to engage with me           10:03:40AM  
14           as to what actually happened, what the motion was and what           10:03:44AM  
15           your understanding of the motion was at the time.    Look,           10:03:47AM  
16           I'll ask you one more time.    The motion imposed costs on           10:03:51AM  
17           Dacland.    There was an application to rescind on the basis           10:03:56AM  
18           of that fact and you received legal advice and there was           10:04:05AM  
19           discussion within the council about whether it was           10:04:09AM  
20           illegal - whether it was legal to impose those costs on           10:04:13AM  
21           Dacland, having not notified them.    That was the issue for           10:04:16AM  
22           the rescission, wasn't it?    Do you know that or don't           10:04:20AM  
23           you?---Commissioner, I will answer to the best of my           10:04:24AM  
24           memory.    I would like to be given an opportunity to           10:04:27AM  
25           answer - - -           10:04:30AM  
26    COMMISSIONER:    No, look, we've said this countless times to           10:04:31AM  
27           you, Mr Aziz.    If in order to properly answer the question           10:04:35AM  
28           you need to provide certain information, then it's           10:04:42AM  
29           relevant to your answer, but not otherwise.    So answer the           10:04:46AM

1 question to the best of your ability, Mr Aziz?---To the 10:04:51AM  
2 best of my ability I don't recall the mechanics of what 10:04:55AM  
3 happened in that instance, nor do I recall that a 10:04:59AM  
4 rescission was successful. 10:05:02AM

5 MR TOVEY: Anyway, going back to 4 September, during that 10:05:07AM  
6 debate in the chamber Ablett left, having declared a 10:05:14AM  
7 conflict of interest, did he not?---I presume so, yes. 10:05:19AM  
8 And then he started texting you giving you advice as to what 10:05:24AM  
9 you should say and how you should say it?---I presume so. 10:05:32AM

10 COMMISSIONER: Do you have no memory of it, Mr Aziz?---I don't 10:05:41AM  
11 recall. I don't recall that debate at all. I recall the 10:05:44AM  
12 issue, but I don't recall the details of exactly what 10:05:49AM  
13 happened that night. 10:05:52AM

14 Was it a common occurrence for you to be in the chamber moving 10:05:55AM  
15 a motion or participating in a debate on a motion with a 10:05:59AM  
16 councillor who has a conflict of interest and who has 10:06:06AM  
17 vacated the chamber communicating with you as to how you 10:06:09AM  
18 should proceed?---That was not appropriate and it rarely 10:06:13AM  
19 happened. 10:06:19AM

20 MR TOVEY: Were you aware that Schutz was also sending messages 10:06:29AM  
21 to you during this debate?---Yes, I was. 10:06:38AM  
22 And she was also instructing you about what to say?---She tried 10:06:40AM  
23 to, yes. 10:06:47AM

24 COMMISSIONER: Mr Aziz, was that a common occurrence, that 10:06:49AM  
25 third parties who had an interest in the outcome of a 10:06:53AM  
26 motion, either by direct representation or through a 10:06:59AM  
27 consultant/lobbyist or someone acting on their behalf, 10:07:02AM  
28 would communicate with a councillor during the course of 10:07:08AM  
29 the motion being debated about how the councillor should 10:07:12AM

1           respond to issues?---Yes, that occurred frequently. 10:07:16AM

2   Is that an appropriate process, Mr Aziz?---I can't comment on 10:07:21AM

3           that, Commissioner. It's just something that used to 10:07:29AM

4           happen. 10:07:32AM

5   You mean you never thought about the appropriateness of 10:07:33AM

6           it?---No, because if people are trying to present 10:07:39AM

7           arguments in support of their case, it's up to the 10:07:42AM

8           councillor to make a determination in the end what he or 10:07:44AM

9           she presents. 10:07:47AM

10   You didn't think about the question of whether it was 10:07:51AM

11          appropriate for you to be receiving representations from 10:07:54AM

12          Ms Schutz on behalf of Mr Woodman about how you should 10:07:57AM

13          proceed?---No, because in the end I didn't follow her 10:08:01AM

14          advice and - - - 10:08:08AM

15   No, I'm not interested in that, Mr Aziz. You understand what 10:08:10AM

16          I've asked you?---And I - - - 10:08:15AM

17   Did you think it appropriate to be receiving representations 10:08:17AM

18          from Ms Schutz on behalf of Mr Woodman whilst the debate 10:08:21AM

19          was in progress?---I think that, given its frequency of 10:08:26AM

20          occurrence, I thought that was appropriate, yes. 10:08:33AM

21   Yes, Mr Tovey. 10:08:37AM

22   MR TOVEY: All right. Then on the following day we know 10:08:40AM

23          Ms Schutz arranged to obtain legal advice from a barrister 10:08:44AM

24          by the name of Mr Chiappi, C-h-i-a-p-p-i. In the course 10:08:48AM

25          of that she indicated that she could facilitate a meeting 10:08:55AM

26          between you and Chiappi, who was giving her the legal 10:09:03AM

27          advice. Did you communicate with Mr Chiappi?---No, 10:09:09AM

28          I wasn't even aware of that. 10:09:13AM

29   What was the result of that legal advice?---That the motion 10:09:15AM

1           that was passed was lawful. 10:09:21AM

2   Are you sure that it wasn't that it was unlawful?---No, it was 10:09:23AM

3           communicated to me that it was a lawful motion. 10:09:28AM

4   You in the first meeting indicated that you claimed to have 10:09:35AM

5           legal advice that it was a lawful motion that was from 10:09:39AM

6           Ms Schutz; is that right?---She advised me she already had 10:09:43AM

7           it, not that she would seek it the next day. 10:09:46AM

8   So you had gone into that first meeting on 4 September knowing 10:09:49AM

9           that there was an issue that what you were trying to do 10:09:54AM

10          might be illegal and you were prepared by saying, 'Well, 10:09:57AM

11          look, I've got legal advice saying what I'm doing is 10:10:01AM

12          legal.' So, you had to be 100 per cent conscious of the 10:10:05AM

13          fact that the effect of what you were doing was 10:10:09AM

14          potentially to impose an illegal impost on Dacland 10:10:10AM

15          favouring Mr Woodman?---I disagree with that entirely 10:10:16AM

16          because if that was my mind set, all of that would have 10:10:20AM

17          been futile. You can't do something illegal and have it 10:10:23AM

18          implemented. It would have been picked up down the track. 10:10:27AM

19          So in my mind it was legal. In fact, the legality of it 10:10:30AM

20          had not entered into my thinking. My - - - 10:10:35AM

21   Can't you understand the question I asked you was why did you 10:10:38AM

22          address the legality of what you were doing before you 10:10:42AM

23          started on the 4 September meeting? The only reason one 10:10:45AM

24          addresses the legality of something they are proposing to 10:10:52AM

25          do is because of the possibility that it's not 10:10:55AM

26          legal?---No, that's entirely incorrect. The issue of 10:10:59AM

27          legality was - - - 10:11:02AM

28   Right. 10:11:04AM

29   COMMISSIONER: Go on?---Can I be given an opportunity to 10:11:08AM

1 answer? 10:11:10AM

2 Yes, go on, Mr Aziz?---The issue of legality may have been 10:11:11AM

3 raised in the debate and in response I have said or I may 10:11:15AM

4 have said that there is legal advice to support this. But 10:11:19AM

5 I did not go into that meeting thinking that what I was 10:11:21AM

6 doing was illegal. It's futile to do that. 10:11:24AM

7 You're really not grappling with Counsel Assisting's point, 10:11:29AM

8 Mr Aziz, which is the fact that you addressed the question 10:11:34AM

9 of legality discloses that you recognised that there was 10:11:38AM

10 an issue that had to be addressed, namely was it legal, 10:11:46AM

11 and your position was, as I follow it, it was 10:11:50AM

12 legal?---Only in response to what may have been raised at 10:11:53AM

13 the debate, Commissioner, not that I went into the meeting 10:11:56AM

14 with a mind set that it was illegal, because - - - 10:11:59AM

15 I understand that?---So if I'm given an opportunity to answer 10:12:02AM

16 the question and provide what I remember, that would be 10:12:08AM

17 very helpful, Commissioner. 10:12:11AM

18 Mr Aziz, if it's relevant to the question, you of course may 10:12:13AM

19 refer to it. If it's not relevant, then it's not 10:12:18AM

20 necessary to answer it that way?---Well, the answer I've 10:12:22AM

21 just given, sir, with all due respect, is very relevant to 10:12:28AM

22 what Mr Tovey asked me. 10:12:32AM

23 Don't worry about the respect, Mr Aziz, just answer the 10:12:34AM

24 questions and if you think that something is relevant in 10:12:37AM

25 order for you to properly answer it, do so, but otherwise 10:12:39AM

26 do not. Is there something else that needs to be said for 10:12:43AM

27 your answer to be a fulsome answer to the question?---No, 10:12:51AM

28 there's just no point. 10:12:57AM

29 Very good. 10:13:00AM

1 MR TOVEY: So following that initial meeting there was 10:13:04AM  
2 discussion as to whether or not there should be rescission 10:13:07AM  
3 and you were involved in those discussions with other 10:13:11AM  
4 councillors and council officers?---I may have been. 10:13:14AM  
5 In the course of that - during that period of time you 10:13:20AM  
6 discussed with Ms Schutz and Mr Ablett what approach would 10:13:31AM  
7 be taken if in fact it was decided that the original 10:13:34AM  
8 motion was not legal and there had to be rescission. Do 10:13:41AM  
9 you agree that you did that?---I can't recall. 10:13:48AM  
10 On 5 September Schutz sent a text message to Ablett which he 10:13:52AM  
11 forwarded on to you, and this is court book page 3429 for 10:14:03AM  
12 the transcript, and in the course of that he indicated 10:14:09AM  
13 that Megan Schutz was preparing, if I might quote, 'some 10:14:22AM  
14 words' for you to use at the next council meeting to cover 10:14:27AM  
15 off on the council legal advice. Did conversations of 10:14:30AM  
16 that or communications of that nature take place between 10:14:38AM  
17 yourself, Mr Ablett and Ms Schutz?---They may have. 10:14:41AM  
18 Then what occurred next was that the motion - sorry, the 10:14:50AM  
19 initial motion was rescinded, this was on 18 September, 10:15:00AM  
20 but you put forward an alternative motion, did you not, 10:15:08AM  
21 again seeking to advance the building of 10:15:13AM  
22 the intersection?---I can't recall. 10:15:18AM  
23 In any event, if that's what the documentation shows, you 10:15:21AM  
24 wouldn't disagree with that? That was an alternative 10:15:26AM  
25 motion, I suggest, provided to you by Ms Schutz?---I can't 10:15:36AM  
26 recall. 10:15:41AM  
27 So then, following that, on 12 October of 2018 there was a 10:15:44AM  
28 discussion between Mr Woodman and Mr Ablett as to how an 10:16:13AM  
29 upcoming vote was going to be or how it was going to play 10:16:20AM

1 out and on the same day I suggest that you and Mr Ablett 10:16:30AM  
2 discussed the H3 intersection and, although I don't want 10:16:36AM  
3 to go unduly to the documents or to conversations for time 10:16:43AM  
4 reasons, I'd ask that tab 94, Mr Commissioner, be played 10:16:48AM  
5 to the witness. 10:16:55AM  
6 COMMISSIONER: Is that an exhibit, Mr Tovey? 10:16:59AM  
7 MR TOVEY: I'm just checking. Could I just have those 10:17:05AM  
8 instructing me make enquiries about that. I'm told, no, 10:17:19AM  
9 it's not. 10:17:27AM  
10 COMMISSIONER: Thank you. 10:17:28AM  
11 (Audio recording played to the Commission.) 10:17:45AM  
12 MR TOVEY: No, could we stop that. That's clearly not the 10:17:59AM  
13 right one. 10:18:03AM  
14 COMMISSIONER: That's already in evidence, Mr Tovey. 10:18:07AM  
15 MR TOVEY: I'm sorry, it should be tab 114. Could we please 10:18:09AM  
16 try tab 114. I'll just check before that's actually 10:18:17AM  
17 played to make sure that's correct. Yes, this is the one. 10:18:26AM  
18 So this is a conversation between you and Mr Ablett on 10:18:50AM  
19 12 October 2018. This is exhibit 32, Mr Commissioner. 10:18:53AM  
20 COMMISSIONER: I'm sorry, it is an exhibit? 10:19:06AM  
21 MR TOVEY: Yes, it's 32. 10:19:09AM  
22 COMMISSIONER: Thank you. 10:19:10AM  
23 (Audio recording played to the Commission.) 10:19:20AM  
24 MR TOVEY: Thank you. I think that's looping. Looking at 10:19:50AM  
25 that, Mr Ablett says to you that he's going to 'flick 10:19:58AM  
26 through to you' an alternate resolution that they're 10:20:01AM  
27 working on and he's going to send it to 'your private 10:20:06AM  
28 one', that's your private email address. 'Your private 10:20:12AM  
29 one' doesn't appear on the transcript, but you can hear 10:20:17AM

1           it?---Whereabouts does he say that? Where does he say           10:20:21AM  
2           'private' email?           10:20:28AM  
3 I'm saying it's not in the transcript but you can hear it in           10:20:29AM  
4           the conversation?---I didn't hear 'private'.           10:20:32AM  
5 Mmm?---I didn't hear the word 'private' in the conversation.           10:20:37AM  
6 Take it from me that he refers to sending it to 'your private           10:20:41AM  
7           one'. But in any event, whether those words can be heard           10:20:44AM  
8           or not, the situation was that you were there discussing           10:20:48AM  
9           with him the fact that they were working on an alternative           10:20:52AM  
10           resolution that he's going to send to you, and the           10:20:58AM  
11           alternate resolution was in fact being worked on by Megan           10:21:02AM  
12           Schutz; that's what you understood from that           10:21:07AM  
13           conversation?---No.           10:21:10AM  
14 Who's 'they'?---It could have been the officers.           10:21:11AM  
15 But you didn't have the officers preparing - the officers were           10:21:15AM  
16           against your proposals on H3, were they not?---It doesn't           10:21:19AM  
17           matter if they're against it. It is their obligation           10:21:23AM  
18           to - - -           10:21:27AM  
19 Do you say you have any recollection at all of           10:21:27AM  
20           officers - I mean, look, you've already told me that           10:21:32AM  
21           Schutz was preparing resolutions for the H3 intersection           10:21:34AM  
22           hearings. Are you saying that you really honestly have           10:21:40AM  
23           some sense that perhaps the alternative resolution that           10:21:45AM  
24           you're talking about there was being prepared by officers           10:21:50AM  
25           and not by Megan Schutz?---Yes, because that's what the           10:21:53AM  
26           officers do at all times when there is an opposite           10:21:56AM  
27           resolution to their recommendation. They prepare it so           10:22:01AM  
28           that it withstands scrutiny at VCAT and other bodies.           10:22:03AM  
29 And was there any reason why the preparation - that resolution           10:22:07AM

1 having been prepared would be sent to your private email 10:22:12AM  
2 as opposed to your council email, other than the fact that 10:22:16AM  
3 you wanted to hide it?---I didn't want to hide anything 10:22:20AM  
4 and that would be irrelevant because it would be raised at 10:22:22AM  
5 a council meeting anyway and I would send it to my council 10:22:26AM  
6 email to keep a record of the issue, and I've done that on 10:22:31AM  
7 occasions previously when people send stuff to my private 10:22:34AM  
8 email. 10:22:37AM  
9 Anyway, just for the record I want to put to you that there 10:22:37AM  
10 what was happening was that you were discussing with 10:22:40AM  
11 Mr Ablett Schutz preparing a proposal for you which he was 10:22:42AM  
12 going to send it to your private email, and that was his 10:22:47AM  
13 suggestion. You don't agree with that, so we'll move on. 10:22:51AM  
14 COMMISSIONER: I'm sorry, I don't know, Mr Tovey, that it's 10:22:56AM  
15 clear Mr Aziz doesn't agree because as usual he didn't 10:22:58AM  
16 answer the question; he immediately started talking about 10:23:02AM  
17 what is a common practice of having council officers 10:23:06AM  
18 prepare an alternate resolution. But the question that he 10:23:09AM  
19 had to answer, and I ask it now of you, Mr Aziz, is do you 10:23:14AM  
20 say that this alternate resolution was one being prepared 10:23:18AM  
21 by the council officers or was it one that was prepared by 10:23:22AM  
22 Ms Schutz to be conveyed to you via Mr Ablett?---I don't 10:23:27AM  
23 recall, Commissioner. That's why - - - 10:23:31AM  
24 That's the short answer then?---Yes. 10:23:34AM  
25 It may or may not have been as Mr Tovey put it; you don't 10:23:39AM  
26 remember?---It may or may not have been. That's correct. 10:23:42AM  
27 That's the short answer. Yes, Mr Tovey. Mr Aziz, there's no 10:23:45AM  
28 point in you shaking your head. That was a perfectly 10:23:58AM  
29 clear example of where, instead of answering his question, 10:24:01AM

1           you went off on a little speech about normal practice. It 10:24:06AM  
2           was unnecessary, do you follow?---No, I don't 10:24:10AM  
3           because - - - 10:24:14AM  
4   Very good. Very good. Yes, Mr Tovey. 10:24:14AM  
5   WITNESS: Oh, this is unbelievable. He put a proposition to me 10:24:16AM  
6           and I - - - 10:24:22AM  
7   COMMISSIONER: Mr Aziz, I'm really not interested in your 10:24:23AM  
8           explanation. I urge you again to try and answer the 10:24:25AM  
9           questions?---That's very clear. Thank you. 10:24:29AM  
10   MR TOVEY: On 16 October the matter came before council for a 10:24:40AM  
11           third time and on that day, just before 9 am, Schutz 10:24:45AM  
12           contacted Ablett and told him that Walker had drafted a 10:24:56AM  
13           letter from SCWRAG and she told him to send you a draft 10:25:01AM  
14           alternate recommendation and the arrangement was that the 10:25:11AM  
15           draft alternate recommendation for 16 October was going to 10:25:20AM  
16           be provided by her to both Ablett and to you. Did that 10:25:27AM  
17           occur?---I don't recall. 10:25:33AM  
18   Just after 9 am she, I'd suggest, phoned you and told you that 10:25:35AM  
19           SCWRAG was writing a letter and that you were going to be 10:25:54AM  
20           provided with speaking notes and crash data for the 10:26:00AM  
21           purposes of the alternate recommendation that she was 10:26:05AM  
22           going to send you. Did that occur?---Yes, I recall 10:26:11AM  
23           getting a letter from SCWRAG or an email. 10:26:14AM  
24   And you knew that that letter from SCWRAG in fact was a letter 10:26:17AM  
25           being written by her, not by SCWRAG?---No, I was not aware 10:26:24AM  
26           of that. 10:26:31AM  
27   We'd better play tab 163. Tab 163, please. 10:26:31AM  
28   COMMISSIONER: Is that an exhibit, Mr Tovey? 10:26:47AM  
29   MR TOVEY: I'll just check. No, it's not an exhibit, I'm told. 10:26:54AM

1 COMMISSIONER: Thank you. 10:27:12AM

2 (Audio recording played to the Commission.) 10:27:13AM

3 MR TOVEY: Mr Aziz, that conversation concluded with you saying 10:31:07AM

4 to Ms Schutz, 'Consider it done.' What did you mean by 10:31:18AM

5 that?---That I would have a look at her alternative and 10:31:23AM

6 call her if I needed to. 10:31:29AM

7 You were there committing to introduce her alternative 10:31:31AM

8 resolution, even though you hadn't seen it?---No, I said 10:31:40AM

9 I'd have a look at it. I said I wasn't committed in 10:31:44AM

10 anything, but I would have a look and I would have a look 10:31:48AM

11 at the new crash data she was sending me to make up my 10:31:51AM

12 mind. 10:31:55AM

13 In the course of the debate that night you indeed produced the 10:31:56AM

14 SCWRAG letter which had been sent to other councillors. 10:31:59AM

15 Do you agree that that occurred?---I recall 10:32:03AM

16 studying - I recall referring to parts of it. Maybe. 10:32:12AM

17 I can't recall. Yes, maybe. 10:32:15AM

18 And you knew that that was in fact not a letter from SCWRAG, it 10:32:17AM

19 was a letter that had been written by Megan Schutz?---No, 10:32:20AM

20 I wasn't aware of that because it came through from 10:32:24AM

21 another source. 10:32:29AM

22 What Megan Schutz says there is, 'SCWRAG are writing a letter 10:32:29AM

23 which is going well - well, I've written the letter which 10:32:35AM

24 is going to be circulated this morning.' She's telling 10:32:40AM

25 you there that although it's coming to you as a SCWRAG 10:32:44AM

26 letter she's in fact written it and you've gone on to use 10:32:47AM

27 it, haven't you? You couldn't care less?---No, I could, 10:32:50AM

28 and I may have missed that in the conversation because it 10:32:53AM

29 came to me from another source, not - - - 10:32:56AM

1 What was it between you and Ms Schutz which allowed her to put 10:32:59AM  
2 to you that you would fraudulently use a letter which was 10:33:02AM  
3 in fact claimed by her?---I didn't fraudulently use a 10:33:07AM  
4 letter that - - - 10:33:12AM  
5 It's clear from that - - - 10:33:14AM  
6 COMMISSIONER: Mr Tovey. 10:33:15AM  
7 MR TOVEY: Yes, I apologise. 10:33:17AM  
8 COMMISSIONER: Go on, Mr Aziz?---The letter came to me from 10:33:20AM  
9 another source which was a community organisation. I may 10:33:24AM  
10 have missed that part of the conversation that you refer 10:33:27AM  
11 to where she says she's writing it, and I may have 10:33:30AM  
12 misunderstood, I may have understood that she was writing 10:33:34AM  
13 some other letter. But she made it very clear to me that 10:33:37AM  
14 there was a very strong community group that was 10:33:41AM  
15 advocating because of the number of accidents and 10:33:43AM  
16 I accepted that at face value and, as I would with anybody 10:33:46AM  
17 making representations to me, I would consider their 10:33:50AM  
18 proposal and then make the presentation that I wished at 10:33:53AM  
19 council. 10:33:59AM  
20 So you're swearing on your oath, Mr Aziz, that notwithstanding 10:34:00AM  
21 this conversation, when you read out parts of this letter 10:34:03AM  
22 in the course of the council debate you did not realise 10:34:07AM  
23 that this was a letter drafted by Ms Schutz?---No, 10:34:10AM  
24 I thought - I may have thought that it was a genuine - - - 10:34:16AM  
25 No, I'm not interested in what you may have thought. I'm 10:34:19AM  
26 trying to understand your last answer?---Yes. 10:34:21AM  
27 And was your last answer you did not realise when you spoke at 10:34:24AM  
28 the council debate that the letter from which you were 10:34:30AM  
29 reading was a letter which had been prepared by Ms Schutz 10:34:34AM

1 for SCWRAG?---I don't believe I was aware, Commissioner. 10:34:38AM  
2 I'm sorry, but your last answer was not a basis - not expressed 10:34:43AM  
3 on the basis of belief. You asserted positively that you 10:34:50AM  
4 did not realise it was. Now, what is the position? Is it 10:34:56AM  
5 just a belief or are you swearing positively that you did 10:35:01AM  
6 not realise that this was the letter which Ms Schutz had 10:35:04AM  
7 drafted?---This letter was emailed to me by another 10:35:09AM  
8 person - - - 10:35:13AM  
9 No, no, no. I really don't want that explanation. I want you 10:35:14AM  
10 to state what your state of mind was at the time of the 10:35:18AM  
11 debate?---I don't believe that my state of mind was that 10:35:21AM  
12 Ms Schutz wrote this letter. 10:35:25AM  
13 'I don't believe that my state of mind was'. All right. Yes, 10:35:28AM  
14 Mr Tovey. 10:35:32AM  
15 MR TOVEY: Was there something about the relationship - sorry, 10:35:36AM  
16 I wanted to ask you what was there about the relationship 10:35:39AM  
17 between yourself and Ms Schutz which enabled her to in 10:35:45AM  
18 fact tell you that she was sending you a letter which was 10:35:51AM  
19 being fraudulently used? Whether you picked up that or 10:35:57AM  
20 not, it's clear that's what she's telling you, that she's 10:36:03AM  
21 sending you a letter which is going to be fraudulently 10:36:07AM  
22 used. Was there any relationship between you which would 10:36:09AM  
23 allow her to communicate in such a way with you?---No, and 10:36:12AM  
24 I reject the word 'fraudulently used'. That's not 10:36:16AM  
25 correct, that's not what happened. And there was no 10:36:21AM  
26 relationship between us other than a professional business 10:36:23AM  
27 relationship. 10:36:25AM  
28 COMMISSIONER: Well, I'm sorry, Mr Aziz, if your belief was as 10:36:26AM  
29 you've expressed it as I followed it, you are not actually 10:36:31AM

1 categorically saying that you were not aware at the time 10:36:37AM  
2 of the council meeting this was a letter that had been 10:36:39AM  
3 drafted by Ms Schutz?---Correct. 10:36:43AM  
4 Was this part of what you later describe in your conversation 10:36:47AM  
5 with Ms Wreford? Was this an example of the 'dirty work' 10:36:53AM  
6 that you were doing on behalf of Mr Woodman?---No. 10:36:58AM  
7 Very good. 10:37:07AM  
8 MR TOVEY: I tender tab 163, Mr Commissioner. 10:37:23AM  
9 COMMISSIONER: That will be exhibit 289. 10:37:26AM  
10 #EXHIBIT 289 - Conversation between Mr Aziz and Ms Schutz on 10:37:37AM  
11 16/10/18, tab 163. 10:37:37AM  
12 MR TOVEY: Excuse me, Mr Commissioner. Staying on 16 October 10:37:50AM  
13 2018, I want to play to you a conversation between 10:38:18AM  
14 yourself and Megan Schutz which had occurred at 3.20 the 10:38:22AM  
15 afternoon before the vote. Could tab 22 please be played, 10:38:29AM  
16 Mr Commissioner, and that has not previously been an 10:38:36AM  
17 exhibit. 10:38:41AM  
18 COMMISSIONER: Yes. I'm sorry, what was the date, Mr Tovey? 10:38:43AM  
19 MR TOVEY: 16 October 2018. 10:38:47AM  
20 COMMISSIONER: Thank you. 10:38:49AM  
21 (Audio recording played to the Commission.) 10:39:33AM  
22 MR TOVEY: So that was an exchange that was taking place 10:40:26AM  
23 between you and Megan Schutz in preparation for the debate 10:40:29AM  
24 that night in front of council?---Yes. 10:40:32AM  
25 And that was a debate whereby Dacland were making application 10:40:36AM  
26 to defer a release - sorry, to permit the release of land 10:40:40AM  
27 or certain areas of land ahead of the requirement to 10:40:49AM  
28 construct the intersection; is that right?---I can't 10:40:54AM  
29 recall what was in that letter. 10:40:58AM

1 And here you are in the lead-up discussing with Ms Schutz 10:41:00AM  
2 developments as they unfolded?---Yes. 10:41:11AM  
3 And you are telling her that you 'don't want any surprises 10:41:15AM  
4 tonight'; true?---Yes, it appears that way. 10:41:23AM  
5 And during this period of time you were seeking, were you not, 10:41:28AM  
6 to indicate to her your absolute loyalty to her and 10:41:35AM  
7 Woodman in prosecuting their agenda in respect of the H3 10:41:38AM  
8 intersection?---Not my loyalty to her and Woodman, no. 10:41:45AM  
9 COMMISSIONER: Mr Aziz, in the previous conversation on the 10:41:56AM  
10 same day Ms Schutz not only tells you that she's prepared 10:41:59AM  
11 the letter from SCWRAG which you are to use that evening 10:42:03AM  
12 in the motion, in support of the motion, but she describes 10:42:10AM  
13 it 'as basically your speaking notes'. On what basis 10:42:15AM  
14 would Ms Schutz think that she could prepare for you 10:42:22AM  
15 speaking notes?---Because she was a very assertive person. 10:42:26AM  
16 That's how she operated. 10:42:32AM  
17 You mean she'd do that with all the councillors, would she, 10:42:35AM  
18 prepare them speaking notes?---I would believe so. 10:42:39AM  
19 That's your evidence on oath that you believe that Ms Schutz 10:42:42AM  
20 would prepare for any of the councillors speaking notes 10:42:47AM  
21 for them?---That's how she operated, Commissioner. 10:42:50AM  
22 Yes, very good. Yes, Mr Tovey. 10:42:54AM  
23 MR TOVEY: All right. So we then move on to later in the 10:42:59AM  
24 afternoon and this is an exhibit which is tab 23, exhibit 10:43:03AM  
25 35. 10:43:13AM  
26 COMMISSIONER: Mr Tovey, that last (indistinct) 290. 10:43:16AM  
27 #EXHIBIT 290 - Tab 22. Audio recording of conversation between 10:38:21AM  
28 Mr Aziz and Ms Schutz of 16/10/18. 10:38:22AM  
29 COMMISSIONER: And is this current conversation you're taking 10:43:31AM

1 us to an exhibit. 10:43:33AM

2 MR TOVEY: This is a conversation at 4.40 that afternoon in the 10:43:35AM

3 lead-up to the debate. 10:43:39AM

4 COMMISSIONER: Is that an exhibit? 10:43:41AM

5 MR TOVEY: No, that is exhibit 35. 10:43:43AM

6 COMMISSIONER: Thank you. 10:43:46AM

7 (Audio recording played to the Commission.) 10:43:55AM

8 MR TOVEY: Is there anything that causes you concern having 10:50:09AM

9 heard that conversation, Mr Aziz?---No. 10:50:11AM

10 You see that as a totally legitimate and normal conversation 10:50:16AM

11 between a councillor and a proponent seeking an advantage 10:50:21AM

12 in a planning matter?---I didn't see that to be seeking an 10:50:32AM

13 advantage, and my interest in this - - - 10:50:37AM

14 I'm sorry, are you saying you didn't see Woodmans to be seeking 10:50:41AM

15 an advantage in respect of H3?---No, I didn't. 10:50:45AM

16 Why did you think they were doing it?---I understood that they 10:50:48AM

17 had a stake in the development or the PSP area, but 10:50:53AM

18 I understood that they were accelerating or they wanted to 10:51:02AM

19 accelerate the development of this intersection to assist 10:51:06AM

20 their part of the estate as well. But they were also 10:51:10AM

21 giving me a lot of information about community safety, 10:51:15AM

22 which is the area that I was interested in. 10:51:17AM

23 The only reason Megan Schutz on behalf of John Woodman was 10:51:19AM

24 giving you detailed instructions by the minute most of 10:51:26AM

25 the afternoon leading up to this is because she was 10:51:30AM

26 protecting Woodman's commercial interest. Are you saying 10:51:33AM

27 you had no concept that that might have been the 10:51:37AM

28 case?---It may have been the case, but - - - 10:51:41AM

29 Mr - sorry, I apologise. Go on?---I didn't think of it in 10:51:45AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

those terms, Mr Tovey, because I was focused on the community safety issue, and the reason I asked her to put it to me in writing is because I like all those communications to be recorded for the record, for the protection of myself and the council.

You realise that in a previous conversation you've told her that you would put up the recommendation. It's clear from this you didn't even know what the recommendation was?---I understood broadly what it would be in terms of the deferral, but the specific wording is something that I wanted to get greater clarity on and I understood she was working on that with the mayor of the day.

At line 66 you say to her, having asked her to write down for what she wants you to say, you say this, 'What is the recommendation we're seeking tonight?' And you said you've been flat out and then she says, 'So your recommendation tonight is that council does not support the grant of secondary consent to defer the intersection works.' You didn't know. When you previously indicated to her that you were going to see the resolution through, you had no idea what the resolution even was. It was enough for you that they wanted you to do it?---No, that's not true. Like I said, and I acknowledge that in the conversation, it may have been an extremely busy day and I would maybe present four or five different issues at council. And so that was my way of trying to manage what I envisaged I would do that night.

It doesn't occur to you that this might be seen as an appalling and very concerning conversation?---No.

10:51:50AM  
10:51:54AM  
10:51:57AM  
10:51:59AM  
10:52:03AM  
10:52:07AM  
10:52:13AM  
10:52:17AM  
10:52:21AM  
10:52:25AM  
10:52:29AM  
10:52:33AM  
10:52:36AM  
10:52:43AM  
10:52:48AM  
10:52:54AM  
10:52:58AM  
10:53:00AM  
10:53:07AM  
10:53:15AM  
10:53:18AM  
10:53:23AM  
10:53:27AM  
10:53:31AM  
10:53:36AM  
10:53:39AM  
10:53:45AM  
10:53:47AM  
10:53:52AM

1 You just see this as part of your normal business?---There's no 10:53:53AM  
2 intent of malice against the community here. 10:53:57AM  
3 Your normal business, I'd suggest to you, was simply selling 10:54:00AM  
4 influence and that's what you're doing here; you're doing 10:54:04AM  
5 what they wanted. You didn't even know what it 10:54:07AM  
6 was?---I absolutely reject that. 10:54:10AM  
7 Would that be an appropriate time, Mr Commissioner? 10:54:11AM  
8 COMMISSIONER: Before we adjourn, a couple of questions, 10:54:15AM  
9 Mr Aziz, that I want to ask you in relation to the 10:54:21AM  
10 evidence that you gave yesterday concerning Yarra Ranges 10:54:25AM  
11 and Mr Penman?---Yes. 10:54:31AM  
12 How did you come to meet Mr Penman and find out that he wanted 10:54:33AM  
13 to play some influential role in the forthcoming council 10:54:46AM  
14 elections at Yarra Ranges?---Yes, I was introduced to him 10:54:54AM  
15 initially by a mutual friend and it was just a meet and 10:54:58AM  
16 greet, and then some months later I ended up purchasing a 10:55:02AM  
17 franchise off him, and then some months after that he 10:55:07AM  
18 approached me and put to me the proposition that he was 10:55:10AM  
19 very frustrated with the administration of Yarra Ranges 10:55:14AM  
20 and wanted to seek my advice about how to improve things 10:55:20AM  
21 there and get better candidates and so on. 10:55:23AM  
22 Yes. When you were introduced to him, do you recall who the 10:55:26AM  
23 person was that introduced you?---Yes, it was his then 10:55:36AM  
24 CEO, Mr Tino Grossi. 10:55:42AM  
25 And at any stage before Mr Penman requested that you assist him 10:55:46AM  
26 in the way you've described in relation to the Yarra 10:55:54AM  
27 Ranges Council, did you have any discussions with 10:55:57AM  
28 Mr Woodman or with anyone else associated with 10:56:04AM  
29 Mr Woodman's company Watsons about working with 10:56:08AM

1 Mr Penman?---I believe I discussed it with Ms Wreford, 10:56:11AM  
2 yes. 10:56:18AM  
3 Apart from Ms Wreford, you know Heath Woodman?---I've never met 10:56:18AM  
4 Heath Woodman. 10:56:26AM  
5 You know of him, and what about his partner, 10:56:26AM  
6 Mr Wyatt?---Mr who? 10:56:36AM  
7 Wyatt?---I have never met either of those gentlemen, or if 10:56:37AM  
8 I have I would not have known who they were. 10:56:42AM  
9 And so you say your contact with Mr Penman did not come about 10:56:44AM  
10 in any way through your association with Mr Woodman or 10:56:50AM  
11 Watsons?---No, not at all. Nothing to do with that. 10:56:54AM  
12 So when you were asked by Mr Penman to assist him, did you 10:56:58AM  
13 enter some commercial arrangement with him?---Yes, I did. 10:57:11AM  
14 What was the nature of the arrangement?---The arrangement was 10:57:14AM  
15 that I would canvass the environment, that he would put me 10:57:19AM  
16 on a retainer of \$1,000 per month plus GST, and that 10:57:25AM  
17 I would develop for him a strategy to explain how to 10:57:29AM  
18 improve the success of candidates that would be contesting 10:57:36AM  
19 the 2020 election at Yarra Ranges. 10:57:39AM  
20 Yes. And did he pay you that retainer?---He paid me that 10:57:43AM  
21 retainer for a period of over 12 months, actually. 10:57:49AM  
22 For 12 months, \$1,000 a month?---Over. Over 12 months. 10:57:55AM  
23 Yes. And when we look at your tax returns, Mr Aziz, will we 10:58:01AM  
24 see that you declared that income?---Yes, I did. 10:58:06AM  
25 You declared it in your tax return?---I actually had to do a 10:58:11AM  
26 BAS statement in relation to it because it was actually 10:58:16AM  
27 billed under my personal name, not my company name. 10:58:18AM  
28 And will we find, Mr Aziz, that you declared the income from 10:58:21AM  
29 Spicer Thoroughbreds in your tax return?---I believe 10:58:28AM

1 I did, yes. 10:58:32AM

2 Are you sure?---I can't recall, but I believe I did because 10:58:32AM

3 usually I just forward all my invoicing to my accountant. 10:58:39AM

4 What about your earnings from the Little River 10:58:43AM

5 consultancy?---Yes, I haven't done my tax return yet for 10:58:50AM

6 19/20, but they were declared in BAS statements that had 10:58:53AM

7 to be prepared. 10:58:59AM

8 And your interest earned in relation to the loan to Mr Woodman 10:59:00AM

9 of \$600,000, will we find the interest on that loan 10:59:07AM

10 declared?---Yes, at the time I referred all that 10:59:11AM

11 information to my accountant. 10:59:15AM

12 Will we find it declared, Mr Aziz?---I believe it was declared, 10:59:17AM

13 yes. 10:59:22AM

14 So have you seen this morning's Age, Mr Aziz?---The Age 10:59:24AM

15 newspaper? 10:59:34AM

16 Yes, and have you read what Mr Penman has said to have told The 10:59:34AM

17 Age reporter?---Yes, I actually read that last night and 10:59:39AM

18 I thought it was absolutely abhorrent. 10:59:43AM

19 Yes, what part of it?---Well, there were many inaccuracies in 10:59:45AM

20 the article. I don't know how I've conned him. I've 10:59:50AM

21 actually obliged with everything he asked me to do. He 10:59:54AM

22 didn't pay me \$1,000 a week as he claimed. He paid me 10:59:58AM

23 \$1,000 a month plus GST. He asked me for a specific 11:00:02AM

24 assignment and he was willing to proceed with me on that 11:00:08AM

25 assignment. It was interrupted by the fact that I chose 11:00:11AM

26 to travel overseas to get a break and then I stopped 11:00:16AM

27 billing him from that point forward. I don't know how he 11:00:21AM

28 could get the impression that I was a disgusting ratbag 11:00:26AM

29 who conned him when that was never the nature of our 11:00:29AM

1 interactions. I dealt with him on many issues. He had 11:00:33AM  
2 other projects that he wanted to consult me on and we were 11:00:38AM  
3 going to proceed with those projects. So, he was clearly 11:00:43AM  
4 happy with the work and services I was providing him. And 11:00:47AM  
5 that article, as usual, is just full of fallacies. 11:00:50AM  
6 Mr Aziz, what were the other projects he was wanting to engage 11:00:53AM  
7 you on?---He was actually looking to commence at one stage 11:00:58AM  
8 a Jim's bank or a finance facility through the Jim's 11:01:03AM  
9 franchising group and we had started initial discussions 11:01:08AM  
10 about that, but they didn't proceed, and he was also 11:01:12AM  
11 looking to publicly list his franchise business and he 11:01:18AM  
12 actually invited me to be a member of that board when it 11:01:22AM  
13 became public and he asked me to submit a whole heap of 11:01:27AM  
14 personal information in preparation for the appointment, 11:01:30AM  
15 but that didn't proceed either. Now, I'm not sure a 11:01:33AM  
16 person behaving like this with someone can actually then 11:01:38AM  
17 afterwards classify them as conning them, because all the 11:01:42AM  
18 approaches came from him. The only thing I approached him 11:01:45AM  
19 about was buying a family franchise, which we did, and 11:01:48AM  
20 then got out of because their business model wasn't 11:01:52AM  
21 working for us. 11:01:55AM  
22 Yes. And, Mr Aziz, you understood, as he's explained, that he 11:01:56AM  
23 had a real estate interest in Yarra Ranges electorate that 11:02:07AM  
24 he was wanting to convert into a sporting complex?---He 11:02:17AM  
25 never told me that. That never entered into the 11:02:21AM  
26 discussion at any point in time, and there were many 11:02:26AM  
27 witnesses to those discussions because I rarely met with 11:02:30AM  
28 him alone in relation to those matters. 11:02:33AM  
29 So you say that his account that he had a large real estate 11:02:36AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

interest that he was wanting to convert into a sporting complex and that he had never-ending troubles with the council in relation to that proposal never entered into your discussions at all; that he simply went to you on the basis that he wanted your assistance to improve the quality of performance by the councillors at Yarra Ranges; is that your position?---That's how he expressed it to me and through that the performance of the officers themselves.

And how much did he tell you he was prepared to expend at the forthcoming council elections in order to get the councillors that he thought would be appropriate?---He asked me to prepare a budget and estimates based on my experience of what campaigns usually cost, and he said he was happy to spend anywhere up to 80 to \$100,000 for that to occur. And I said to him that the best way to go about these matters is for good quality candidates to actually undertake their own fundraising. That way they've got a stake in the campaign.

Yes. During your period as a councillor did you either personally or through any one of the companies with which you were associated, apart from Mr Woodman and Mr Nehme that you've told us about, enter into any form of commercial arrangement with any other person or entity that had a financial interest in a matter that was to be considered by the Casey Council?---Not to be considered, but had been finalised, and I mentioned this yesterday, and that was the matter to do with IPsoft and artificial intelligence.

11:02:47AM  
11:02:50AM  
11:02:53AM  
11:02:58AM  
11:03:03AM  
11:03:06AM  
11:03:11AM  
11:03:15AM  
11:03:17AM  
11:03:20AM  
11:03:24AM  
11:03:27AM  
11:03:33AM  
11:03:36AM  
11:03:39AM  
11:03:47AM  
11:03:56AM  
11:04:00AM  
11:04:04AM  
11:04:05AM  
11:04:15AM  
11:04:22AM  
11:04:28AM  
11:04:32AM  
11:04:37AM  
11:04:40AM  
11:04:46AM  
11:04:49AM  
11:04:53AM

1 And who were the individuals you were dealing with 11:04:54AM  
2 there?---I was dealing with the state manager and also 11:04:58AM  
3 with the national manager in Australia who was based in 11:05:04AM  
4 Sydney. 11:05:07AM  
5 Yes. So you understand my question is directed to, without 11:05:07AM  
6 worrying about whether or not it was a commercial 11:05:14AM  
7 arrangement that was in existence or had been in existence 11:05:16AM  
8 or was going to come into existence, you understand I want 11:05:20AM  
9 you to address any of those possibilities. Were there any 11:05:24AM  
10 other persons, other than those three that you've now 11:05:28AM  
11 nominated, that you had discussions with during a period 11:05:31AM  
12 when the council might have been considering matters which 11:05:36AM  
13 affected their financial interests?---I would add to that 11:05:39AM  
14 list a number of people in the Smart Cities space that 11:05:45AM  
15 were looking to introduce certain projects into the City 11:05:50AM  
16 of Casey, but again they were concepts that never went 11:05:56AM  
17 anywhere, but there was no financial arrangement between 11:05:59AM  
18 myself and those individuals. They were simply presenting 11:06:03AM  
19 new ideas to me as a councillor to allow the 11:06:08AM  
20 administration to consider them. 11:06:12AM  
21 I'm sorry, they had no financial interest in any matter which 11:06:15AM  
22 council had discussed or considered or was in the process 11:06:20AM  
23 of considering?---No, no, and can I give you just one 11:06:25AM  
24 quick example of such a matter? 11:06:29AM  
25 Yes?---So, someone approached me in relation to establishing in 11:06:32AM  
26 Casey a farm for legal marijuana for medicinal purposes 11:06:38AM  
27 and again all that progressed to was just a couple of 11:06:45AM  
28 meetings where he explained the concept to me. There were 11:06:49AM  
29 a number of occasions where I referred individuals to the 11:06:54AM

1 officers who were seeking to explore business development 11:06:57AM  
2 opportunities in our city and create employment and start 11:07:02AM  
3 new projects. So council officers were involved in 11:07:08AM  
4 helping those individuals identify land, for example, that 11:07:10AM  
5 they could start their projects on. But I've had no 11:07:12AM  
6 financial benefit from those processes. I just tried to 11:07:18AM  
7 introduce as many initiatives in Casey as possible to 11:07:24AM  
8 satisfy my portfolio of employment growth and economic 11:07:27AM  
9 growth and it was proving to be successful across a range 11:07:30AM  
10 of areas. 11:07:34AM  
11 Yes. We're going to have a break now. We'll resume at 20 past 11:07:37AM  
12 11?---Thank you. 11:07:43AM  
13 (Short adjournment.) 11:07:47AM  
14 COMMISSIONER: Yes, Mr Tovey. 11:21:18AM  
15 MR TOVEY: Thank you, Mr Commissioner. So, in respect of H3, 11:21:24AM  
16 who did you speak to at Dacland?---I spoke to no one at 11:21:55AM  
17 Dacland. 11:22:01AM  
18 Ever?---I don't believe I did, no. 11:22:02AM  
19 Did you speak to any representative of Dacland?---No, I don't 11:22:11AM  
20 recall so. 11:22:20AM  
21 How much were your proposals going to cost Dacland?---I can't 11:22:21AM  
22 recall that information. 11:22:31AM  
23 Did you ever know?---I don't believe so. 11:22:33AM  
24 Because you didn't care. That's what Mr Woodman wanted; is 11:22:39AM  
25 that the situation?---No, that's not the situation. 11:22:44AM  
26 Sorry, I can't see the Commissioner on my feed. Okay, 11:22:55AM  
27 he's back. 11:22:58AM  
28 Sorry, Mr Aziz, you said you can't see the Commissioner?---He 11:23:02AM  
29 disappeared for a minute, but now he's back. 11:23:06AM

1 In 2016 I've already put to you that you with Lorraine Wreford 11:23:09AM  
2 and John Woodman put together a scheme to identify 11:23:21AM  
3 candidates that favoured C219 and to secretly funnel money 11:23:27AM  
4 into their campaigns. You deny that; I think that was 11:23:37AM  
5 your position?---That's correct, yes. 11:23:43AM  
6 And did you have any communication at all with Janet Halsall in 11:23:44AM  
7 2016 in respect of the 2016 council election?---Almost 11:23:53AM  
8 every day leading up to the election. 11:24:03AM  
9 What was her role?---She was my campaign manager and she 11:24:06AM  
10 managed the campaigns for a lot of other candidates. 11:24:15AM  
11 How many?---At least six or seven councillors seeking 11:24:18AM  
12 re-election. 11:24:27AM  
13 Who were they?---Myself, Councillor Stapledon or former 11:24:28AM  
14 Councillor Stapledon - I'll just refer to them by their 11:24:37AM  
15 names. Gary [sic] Ablett, Damien Rosario, Wayne Smith and 11:24:40AM  
16 a new candidate who ended up winning in Four Oaks ward, 11:24:52AM  
17 that was [REDACTED], and there were a few other 11:24:58AM  
18 candidates who were seeking re-election - election, 11:25:03AM  
19 rather, that I supported as well because they would have 11:25:07AM  
20 made excellent councillors. 11:25:10AM  
21 And you already indicated to me that what you'd do is you would 11:25:12AM  
22 organise that group printing, group advertising, 11:25:21AM  
23 et cetera, would be - sorry, I'll just move on. Printing, 11:25:30AM  
24 for instance, you'd organise printing and then you'd pay 11:25:37AM  
25 for it and they'd reimburse you?---No, I didn't organise 11:25:41AM  
26 printing and paid for it and they reimbursed me. Every 11:25:46AM  
27 candidate was responsible for the expenses of their 11:25:50AM  
28 campaign. I simply organised strategy and policy that 11:25:54AM  
29 they put forward, and sometimes I overlooked the design of 11:25:58AM

1 their pamphlets and material that they were putting out to 11:26:05AM  
2 ensure that it was electorally of good quality. 11:26:09AM  
3 Well, was this campaign that you had organised to be run by 11:26:12AM  
4 Ms Halsall a campaign which provided advertising materials 11:26:19AM  
5 to the various candidates?---Yes, every campaign has to 11:26:27AM  
6 involve advertising material, especially at council level. 11:26:35AM  
7 So these are the brochures, they would be mailouts, they're all 11:26:40AM  
8 those sorts of things which were involved in the 11:26:47AM  
9 campaign?---Yes. 11:26:52AM  
10 And is that something that Ms Halsall was organising?---She was 11:26:54AM  
11 coordinating all of it, yes. 11:27:00AM  
12 And how did that work? Was that something that was being done 11:27:02AM  
13 with your oversight or with your involvement or 11:27:10AM  
14 not?---Only the components of the advertising material and 11:27:15AM  
15 the various candidates that I had been approached with 11:27:21AM  
16 from the community. But the actual mechanics of running 11:27:28AM  
17 pamphlets and their distribution is something that I had 11:27:32AM  
18 nothing to do with. I was too busy for that. 11:27:37AM  
19 And so how - - - 11:27:40AM  
20 COMMISSIONER: I'm sorry. Mr Aziz, could I just ask you have 11:27:43AM  
21 you heard - are you familiar with the concept of 'dummy 11:27:46AM  
22 candidates'?---Yes, I'm very familiar with that, yes. 11:27:50AM  
23 What's that a term - what does it encompass, that notion, as 11:27:54AM  
24 you understand it?---It encompasses people running for an 11:28:01AM  
25 election, not for the purpose of winning for themselves, 11:28:05AM  
26 but for the purpose of passing on votes as preferences to 11:28:08AM  
27 another candidate. 11:28:12AM  
28 And is that a ploy that you've engaged in from time to 11:28:13AM  
29 time?---No, because - - - 11:28:20AM

1 That is - - -?---No, no - - - 11:28:23AM

2 That is - I'm sorry. Go ahead?---The risk you run of a dummy 11:28:25AM

3 candidate getting elected is quite high. So I don't - 11:28:31AM

4 the candidates that I've worked with have all been high 11:28:37AM

5 quality and if any of them had been elected they would 11:28:41AM

6 have made excellent councillors. 11:28:44AM

7 So in no campaigns in which you played any part have you 11:28:46AM

8 utilised the concept of dummy candidates?---No, not 11:28:53AM

9 deliberately, as in I never approached or worked with 11:28:58AM

10 anyone that was just running to give someone else votes. 11:29:02AM

11 They were all keen on getting elected. 11:29:06AM

12 When you in the course of your consultancy for Mr Penman were 11:29:09AM

13 advising him about how you might run an election campaign 11:29:20AM

14 for the forthcoming Yarra Ranges election, did you discuss 11:29:24AM

15 with him the concept of dummy candidates?---No. Am I able 11:29:30AM

16 to say what I discussed with him? 11:29:40AM

17 The short answer is you never mentioned the use of dummy 11:29:41AM

18 candidates as part of your election campaign and the 11:29:44AM

19 advice you were giving him?---No, no, no. I mentioned 11:29:49AM

20 supporting candidates. 11:29:53AM

21 Yes. Thank you. 11:29:55AM

22 MR TOVEY: Mr Commissioner, your voice is coming across very 11:29:57AM

23 softly on our system. 11:30:02AM

24 COMMISSIONER: I'll address that. 11:30:06AM

25 MR TOVEY: I think we might need a very short break, sir, to 11:30:19AM

26 fix it. 11:30:23AM

27 COMMISSIONER: I'll just move the microphone up. 11:30:26AM

28 MR TOVEY: No, that's not making any difference. 11:30:29AM

29 COMMISSIONER: I see. All right. Thank you. 11:30:32AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

(Short adjournment.)

COMMISSIONER: Yes. I'm sorry, Mr Tovey.

MR TOVEY: Thank you, Mr Commissioner. Now, we have evidence from Ms Wreford and from Mr Woodman that Mr Woodman engaged in a process in 2016 whereby candidates who were seen to be prepared to support C219 were in fact in a position where their campaigns were financed to the extent of something approaching \$90,000 in total through Ms Halsall. That's something you never had any hint of?

COMMISSIONER: You're on mute, Mr Aziz?---Apologies.

Start again, Mr Aziz?---I wasn't aware of Mr Woodman's involvement in supporting certain candidates. He certainly didn't support my campaign.

MR TOVEY: Well, I'd suggest that in fact he did. He provided payments which were attributed to your campaign just as he did to the others who were identified. That's what the documentation that has already been provided to the Commission shows, that allocations have been made by Ms Halsall or by whoever it was was conducting the accounts of this joint effort to make allocations to your campaign as well. Is that something you deny?---Yes, I do.

All right.

COMMISSIONER: Mr Aziz, where did you think the campaign funds were coming from for the 2016 campaign?---Every candidate ran a fundraiser and I did not ask them questions about what was - who was contributing to their campaign or how much they raised at their fundraisers. I was simply advising on the electoral material that was distributed

11:30:33AM  
11:32:15AM  
11:32:16AM  
11:32:28AM  
11:32:32AM  
11:32:41AM  
11:32:52AM  
11:32:57AM  
11:33:04AM  
11:33:12AM  
11:33:20AM  
11:33:26AM  
11:33:31AM  
11:33:33AM  
11:33:42AM  
11:33:45AM  
11:33:53AM  
11:33:57AM  
11:34:03AM  
11:34:06AM  
11:34:11AM  
11:34:15AM  
11:34:17AM  
11:34:20AM  
11:34:24AM  
11:34:31AM  
11:34:37AM  
11:34:40AM  
11:34:45AM

1 and I supported people that Mr Woodman didn't even know 11:34:49AM  
2 were coming forward to contest the election. He was not 11:34:53AM  
3 consulted about the candidates. 11:34:56AM  
4 So my question was where did you understand the finance was 11:34:58AM  
5 coming from for the campaign?---Private fundraising. 11:35:03AM  
6 What, from multiple sources?---Yes, every councillor seeking 11:35:08AM  
7 election I'm aware ran a fundraiser or several 11:35:16AM  
8 fundraisers, and it was up to them to pay their own bills. 11:35:22AM  
9 I didn't ask them questions about how they were paying the 11:35:26AM  
10 bills. 11:35:28AM  
11 So, Mr Aziz, when you were contemplating the takeover of Yarra 11:35:28AM  
12 Ranges Council you actually contemplated engaging 11:35:40AM  
13 Ms Halsall to run the campaign at that forthcoming 11:35:43AM  
14 election, didn't you?---Yes, as a campaign manager, that's 11:35:46AM  
15 right. 11:35:51AM  
16 Yes. And in a conversation with her did you say to her words 11:35:51AM  
17 to the effect that, 'Mr Penman would finance the entire 11:35:56AM  
18 campaign in the same way as we've had campaigns in Casey 11:36:02AM  
19 previously'? Did you say words to that effect?---I don't 11:36:08AM  
20 recall so. I may have. I don't recall. 11:36:16AM  
21 Would that have reflected your intention?---It was different 11:36:20AM  
22 with Mr Penman because he was looking at putting wholesale 11:36:25AM  
23 funds up to support a number of candidates. But when it 11:36:30AM  
24 came to Casey, because the campaigns were hotly contested, 11:36:35AM  
25 I focused only on the strategy. So, however the funds 11:36:40AM  
26 were raised was not something that I got involved in. 11:36:47AM  
27 So I'll put this to you again so that there can be no doubt 11:36:50AM  
28 about your answer, Mr Aziz. Did you say to Ms Halsall, 11:36:54AM  
29 when approaching her with the offer of her being the 11:36:58AM

1 campaign manager for Yarra Ranges' election that you were 11:37:03AM  
2 interested in organising, that this person, namely 11:37:07AM  
3 Mr Penman, 'will finance the entire campaign in the same 11:37:15AM  
4 way that we've had campaigns in Casey previously 11:37:18AM  
5 conducted'? Did you go on and say to her, 'And your role 11:37:22AM  
6 would pretty much be exactly what you did in the Casey 11:37:27AM  
7 election, except that the fee for your service would 11:37:31AM  
8 double'? Did you say words to that effect to 11:37:34AM  
9 Ms Halsall?---I may have, Commissioner. 11:37:40AM  
10 Yes, and would that have been true?---If it had continued and 11:37:42AM  
11 she had accepted the role and if Mr Penman had come 11:37:47AM  
12 through with what he said he wanted to do, yes. 11:37:51AM  
13 So is it true that your understanding was that the funding for 11:37:55AM  
14 previous Casey Councils had largely been funded by one 11:38:02AM  
15 person?---No, because, like I said, everyone ran their own 11:38:06AM  
16 fundraiser and what I was referring to is the wholesale 11:38:14AM  
17 approach to the campaign in terms of organising wholesale 11:38:18AM  
18 printing, central coordination and all these matters, not 11:38:22AM  
19 necessarily just the finances. 11:38:26AM  
20 The candidates that you were supporting - - -?---Yes. 11:38:30AM  
21 For the 2016 election - - -?---Yes. 11:38:34AM  
22 I want you to think very carefully about your answer?---Yes. 11:38:38AM  
23 Did you understand in relation to the candidates you were 11:38:43AM  
24 supporting for the 2016 Casey election that their campaign 11:38:46AM  
25 funds were largely coming from the same donor?---Possibly. 11:38:52AM  
26 I don't know the specific details. I'm well aware of 11:39:03AM  
27 candidates that were supporting their own campaigns with 11:39:09AM  
28 their own funds and when it came to the councillors 11:39:12AM  
29 seeking election or re-election, they all ran fundraisers 11:39:16AM

1 and they advised me that they were doing that. 11:39:21AM

2 You see, I'm not interested in what's possible. I'm interested 11:39:24AM

3 in what your state of mind was. Do you follow?---Yes. 11:39:26AM

4 So I'll just ask you once more and see if I can get an 11:39:31AM

5 unequivocal answer to it, Mr Aziz. In relation to the 11:39:35AM

6 candidates that you were supporting for the purpose of the 11:39:38AM

7 2016 Casey election, was it your understanding there was 11:39:43AM

8 by and large one donor that was supporting their 11:39:49AM

9 campaigns?---That was not my understanding, Commissioner. 11:39:54AM

10 Yes, very well. Yes, Mr Tovey. 11:39:57AM

11 MR TOVEY: Was it your understanding that Ms Halsall was doing 11:40:05AM

12 anything inappropriate in the course of that 11:40:08AM

13 campaign?---Not as far as I was aware, no. 11:40:16AM

14 Was there any hint of impropriety attaching to the activity of 11:40:18AM

15 Ms Halsall at any stage while you were on the council 11:40:24AM

16 between 2016 and 2019?---I wasn't aware of any, no. 11:40:30AM

17 Did you have any reason to think that Ms Halsall's activities 11:40:37AM

18 or your relationship with her might be the subject of 11:40:42AM

19 investigation?---No, I didn't think about that, no. 11:40:47AM

20 And that wasn't something indeed that was - in October of 2019 11:40:53AM

21 when you came to give evidence in private session, nothing 11:41:02AM

22 was mentioned to you about Ms Halsall or indeed about the 11:41:08AM

23 2016 council election, was it?---I can't recall 11:41:13AM

24 what - I can't - - - 11:41:20AM

25 I'm telling you it wasn't. Now, could you please listen to 11:41:20AM

26 this call, a call between you and Ms Halsall on 2 November 11:41:26AM

27 of 2019 after you've gone overseas, and that is tab 158. 11:41:32AM

28 I'm sorry, Mr Commissioner, the note I have, the 11:42:25AM

29 chronology relating to the conversation, doesn't reflect 11:42:35AM

1 the conversation that's actually behind the tab. Could 11:42:40AM  
2 I be excused for just one moment while I make an enquiry? 11:42:43AM  
3 COMMISSIONER: Yes, certainly. We'll adjourn for a moment. 11:42:48AM  
4 MR TOVEY: Thank you. 11:42:52AM  
5 (Short adjournment.) 11:42:53AM  
6 MR TOVEY: Thanks, Mr Commissioner. It appears that what was 11:48:19AM  
7 supposedly cut and transcribed from those particular 11:48:25AM  
8 series of telephone intercepts has been incorrectly cut, 11:48:29AM  
9 so the wrong section is summarised. But in any event I'll 11:48:35AM  
10 put to the witness what in fact occurred on 2 November of 11:48:39AM  
11 2019. Do you recall calling Ms Halsall on a number of 11:48:44AM  
12 occasions while you were overseas?---I believe I called on 11:48:51AM  
13 a couple of occasions, yes. 11:48:57AM  
14 And did you discuss the IBAC inquiry with her?---I believe 11:48:59AM  
15 I did, yes. 11:49:05AM  
16 And did you discuss with her the evidence that you'd given at 11:49:06AM  
17 the IBAC inquiry?---I can't recall the contents of the 11:49:16AM  
18 conversation. 11:49:20AM  
19 Did you discuss with her the fact that Wreford had been a 11:49:20AM  
20 go-between between yourself and Woodman?---I can't recall, 11:49:26AM  
21 but I believe she was already aware of that. 11:49:34AM  
22 Did you discuss with her that - did you say to her, 'Unless 11:49:36AM  
23 we're actually working together we're going to be really 11:49:44AM  
24 screwed by the inquiry'?---I can't recall. I may have. 11:49:46AM  
25 I was under enormous stress at the time, so I can't 11:49:55AM  
26 recall. 11:49:58AM  
27 At that time did you think that the inquiry might screw you and 11:49:59AM  
28 Ms Halsall if you didn't work together?---I don't recall, 11:50:06AM  
29 Mr Tovey, what my frame of mind was, but I was very 11:50:15AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

distressed.

Did you raise with Ms Halsall your concern that unless you two worked together you might get screwed by the inquiry?---I may have said words like that, yes.

So if you concede you may have said something along those lines, was it the fact - it must have been the case that at that time you had in mind something that the inquiry might screw both you and Ms Halsall about. That follows as a matter of logic, you'd agree?---Possibly, yes.

What was it that you were worried about?---I was worried about a million and one things. I was worried about the effect the inquiry would have on a range of things in my personal life and my public life, and I was worried about the publicity that continued to come out - - -

I asked too wide a question. What were you worried about that might be investigated relating to you and Ms Halsall?---It wasn't what would be investigated, but it's the fact that I was away and other people may take the opportunity to give certain evidence to the inquiry that would incriminate me and clear them. That was my main concern.

COMMISSIONER: Mr Aziz, let's just pause there for a moment because the other day you gratuitously took a swipe at Mr Woodman and Ms Wreford, suggesting that because they thought you might never return to Australia they had effectively said things about you that incriminated you. Do you recall making that suggestion?---Yes, and I stand by it.

But if you followed their evidence, their position was quite the opposite. In Mr Woodman's case he made no concessions

11:50:20AM  
11:50:20AM  
11:50:27AM  
11:50:35AM  
11:50:38AM  
11:50:43AM  
11:50:50AM  
11:50:54AM  
11:51:01AM  
11:51:07AM  
11:51:12AM  
11:51:17AM  
11:51:22AM  
11:51:26AM  
11:51:29AM  
11:51:34AM  
11:51:39AM  
11:51:43AM  
11:51:46AM  
11:51:49AM  
11:51:53AM  
11:51:56AM  
11:52:02AM  
11:52:08AM  
11:52:11AM  
11:52:16AM  
11:52:20AM  
11:52:20AM  
11:52:26AM

1 that he ever made corrupt payments to you. Did you not 11:52:30AM  
2 follow his evidence?---I saw parts of it, but not 11:52:34AM  
3 everything and I didn't know what to believe because what 11:52:39AM  
4 I was seeing I was reading in the papers. 11:52:41AM  
5 No, no, I'm interested in why you gratuitously said what you 11:52:45AM  
6 did about Mr Woodman. What is it that Mr Woodman said 11:52:49AM  
7 that you suggest falsely incriminated you?---I was 11:52:53AM  
8 referring mainly to Wreford, not to Woodman, but - - - 11:52:57AM  
9 Very good. Let's take Wreford then. If you followed her 11:53:02AM  
10 evidence you would be aware that it was not until well 11:53:06AM  
11 into her evidence and after she had put a more neutral 11:53:09AM  
12 characterisation to her evidence that sought to place an 11:53:15AM  
13 innocent complexion on the arrangements between you and 11:53:22AM  
14 her and Mr Woodman that she finally - finally - 11:53:26AM  
15 acknowledged that there was a corrupt association. So, 11:53:31AM  
16 I don't follow how you could suggest that what they were 11:53:37AM  
17 both doing was taking advantage of your absence?---Because 11:53:41AM  
18 I read in the media that Wreford described the arrangement 11:53:47AM  
19 in relation to Little River as a bribe, and she more than 11:53:51AM  
20 anyone was aware that it was a legitimate project. 11:53:55AM  
21 Mr Aziz, did you follow her evidence? That was the end part of 11:54:00AM  
22 her testimony. But that's not how her evidence started 11:54:05AM  
23 and it was plainly not her intent initially to make those 11:54:11AM  
24 admissions?---Commissioner, I was overseas in another 11:54:16AM  
25 country and I was reading whatever I could via the 11:54:20AM  
26 internet in terms of what the daily papers were 11:54:23AM  
27 publishing. 11:54:27AM  
28 I'm not interested in what was happening overseas. I'm 11:54:28AM  
29 interested in what was your intent in gratuitously making 11:54:32AM

1 the observations that you did in the last few 11:54:37AM  
2 days?---There was no intent, but that's the impression 11:54:41AM  
3 I got from the media. 11:54:45AM  
4 Yes, Mr Aziz. Yes, Mr Tovey. 11:54:46AM  
5 MR TOVEY: So what was it that you did with Ms Halsall which 11:54:52AM  
6 was a potential cause of embarrassment or 11:54:55AM  
7 investigation?---Probably the design of the campaign and 11:55:00AM  
8 the allegation that the Commissioner raised in relation to 11:55:06AM  
9 dummy candidates, and because I was asked questions about 11:55:09AM  
10 various parts of my role, I imagined that the campaign 11:55:16AM  
11 would also come into it. 11:55:20AM  
12 Do you now recall canvassing with her at some stage, any stage, 11:55:21AM  
13 the possibility that that campaign might get investigated 11:55:30AM  
14 by IBAC?---I may have. I can't recall, but I may have. 11:55:34AM  
15 And you couldn't have been discussing that - - - 11:55:43AM  
16 COMMISSIONER: I'm sorry, Mr Tovey. Did you discuss with 11:55:47AM  
17 Ms Halsall the fact that dummy candidates had been 11:55:53AM  
18 utilised in the 2016 election?---No, because as 11:55:58AM  
19 I said - - - 11:56:04AM  
20 What was your concern then about dummy candidates?---It wasn't 11:56:05AM  
21 so much dummy candidates, but the fact that the campaign 11:56:11AM  
22 was centralised by me and the strategy was - - - 11:56:16AM  
23 You just told us a moment ago in answer to Mr Tovey that one of 11:56:22AM  
24 your concerns related to dummy candidates?---I didn't say 11:56:27AM  
25 that, Commissioner, and if I said it I retract that. 11:56:32AM  
26 All right. Why did you refer at all to dummy candidates in 11:56:37AM  
27 your answer to Mr Tovey?---Because that's generally the 11:56:43AM  
28 impression that's given in elections where there is a 11:56:46AM  
29 massive number of candidates contesting each ward. But in 11:56:49AM

1 our case it wasn't true. They were all worthy candidates, 11:56:54AM  
2 any of whom had they been elected would have made 11:56:59AM  
3 excellent councillors. 11:57:02AM  
4 I'm sorry, so you didn't have a concern about dummy 11:57:03AM  
5 candidates?---I had a concern about the impression, given 11:57:07AM  
6 the number of candidates that ran in each ward, that - - - 11:57:10AM  
7 But, Mr Aziz, that impression would only be of trouble to you 11:57:15AM  
8 if you could be linked to the number of those candidates 11:57:20AM  
9 that were unsuccessful but were being put up for election. 11:57:25AM  
10 Could you? Could you be linked to those 11:57:31AM  
11 candidates?---There are a number of them that I had 11:57:34AM  
12 significant and very obvious linkages to, but they weren't 11:57:36AM  
13 deployed as dummy candidates. They were deployed as real 11:57:40AM  
14 candidates seeking election and - - - 11:57:43AM  
15 And do you still deny that when engaged in your consultancy 11:57:47AM  
16 arrangement with Mr Penman you didn't talk to him about 11:57:53AM  
17 dummy candidates?---I spoke to him about supporting 11:57:56AM  
18 candidates, which is very different - - - 11:58:01AM  
19 No, no, no, I'm talking about dummy candidates, Mr Aziz. Did 11:58:04AM  
20 you talk to him about the use of dummy candidates?---No, 11:58:09AM  
21 I don't recall using that language, Commissioner. 11:58:13AM  
22 Do you deny that you did?---I can't remember, Commissioner, but 11:58:16AM  
23 the advice that I gave him was contained in a document 11:58:23AM  
24 which I'm sure you have possession of and it spoke about 11:58:27AM  
25 supporting candidates, not dummy candidates. 11:58:30AM  
26 I don't follow again why you couch your answers in such a 11:58:33AM  
27 guarded way. If you have not utilised dummy candidates in 11:58:42AM  
28 the past and were not proposing that that particular 11:58:47AM  
29 process be utilised at Yarra Ranges, why can you not just 11:58:52AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

in an unqualified way say, 'No, I never told him  
that'?---Because the issue is far more complex than you  
portrayed to me. You can't win council elections without  
having supporting candidates, but you need to ensure that  
those candidates, should they be elected, will make good  
councillors. You can't get the required quota of votes in  
any council election without having supporting candidates  
and it happens all over local government in Victoria.  
I don't call them dummies because they need to be worthy  
of election should they succeed, and I usually say, 'May  
the best person win in this contest.'  
So the answer is you didn't - you wouldn't use a term like  
'dummy candidates'?---Not in my - no, I don't believe  
I have used it.  
Yes, all right?---Not in the strategy document that I provided  
Mr Penman.  
Yes. Yes, Mr Tovey.  
MR TOVEY: Thank you. Immediately following the 2016 council  
elections on 31 October 2016, page 3705 of the court book,  
Lorraine Wreford and John Woodman were involved in a  
series of WhatsApp messages looking at the results as they  
were coming through. In the end they celebrated that you  
had got up five or six councillors; is that the way in  
which you saw it?---Yes, because I have already said that  
I led the strategy.  
And can you understand why it is that they were concerned to  
establish that you'd established a majority on  
council?---No, because many people were happy that  
I established a majority on council, not just them.

11:58:59AM  
11:59:04AM  
11:59:08AM  
11:59:12AM  
11:59:17AM  
11:59:20AM  
11:59:24AM  
11:59:28AM  
11:59:31AM  
11:59:35AM  
11:59:39AM  
11:59:42AM  
11:59:46AM  
11:59:52AM  
11:59:53AM  
11:59:57AM  
11:59:58AM  
12:00:01PM  
12:00:12PM  
12:00:18PM  
12:00:24PM  
12:00:30PM  
12:00:35PM  
12:00:41PM  
12:00:49PM  
12:00:52PM  
12:00:59PM  
12:01:07PM  
12:01:09PM

1 COMMISSIONER: What does that mean, Mr Aziz, 'a majority on 12:01:17PM  
2 council'?---As in a group of people in the main who are 12:01:19PM  
3 able to work together and collaborate together and have a 12:01:26PM  
4 strategic vision for the city. That's the majority of 12:01:30PM  
5 people that we want to see elected to our local 12:01:36PM  
6 government, people who think that way. 12:01:38PM  
7 But presumably the vast majority of people who stand for 12:01:43PM  
8 election at councils aspire to do precisely that?---No. 12:01:47PM  
9 It's actually quite the opposite, Commissioner. It's very 12:01:53PM  
10 different to the parliamentary role where you go through a 12:01:58PM  
11 rigorous preselection process to be appointed as the 12:02:02PM  
12 representative of a major party. In local government 12:02:07PM  
13 anyone can stand for election, and indeed there have been 12:02:09PM  
14 occasions where many nutters have been elected which seek 12:02:13PM  
15 to do exactly the opposite of what you describe, 12:02:16PM  
16 Commissioner. 12:02:20PM  
17 I said the majority, Mr Aziz. Are you saying on your oath that 12:02:23PM  
18 it's not been your experience that the majority of people 12:02:29PM  
19 who stand for election at council stand with the intent of 12:02:33PM  
20 bringing their best judgment to bear on the merit of each 12:02:39PM  
21 issue as it comes before the council?---I am saying on 12:02:44PM  
22 oath that is absolutely not my experience. 12:02:50PM  
23 Yes, very good. Yes, Mr Tovey. 12:02:53PM  
24 MR TOVEY: Thank you. Excuse me, Mr Commissioner. In March of 12:03:04PM  
25 2018 there was a company by the name of Lodex, L-o-d-e-x, 12:03:20PM  
26 which became involved with your knowledge in discussions 12:03:31PM  
27 with the council; is that right?---Yes. 12:03:35PM  
28 And you in fact introduced people from Lodex to the council and 12:03:39PM  
29 involved them in discussions with Sheena Frost?---Yes. 12:03:54PM

1 And who was Sheena Frost?---She was one of our directors. 12:03:59PM

2 I can't remember her function or role at the time. 12:04:08PM

3 How did you first come to meet any persons who were associated 12:04:13PM

4 with Lodex?---I got introduced to them through the 12:04:23PM

5 Directors institute of Australia of which I was a member 12:04:28PM

6 and - - - 12:04:34PM

7 And when was that?---That was around the start of 2018, but 12:04:34PM

8 I can't remember when. But it was well before March. 12:04:46PM

9 So, what, it would have been January/February 2018?---Yes, 12:04:51PM

10 I believe so. 12:04:56PM

11 So who were you introduced to at Lodex?---I recall the name of 12:05:01PM

12 the main director, which I couldn't recall a couple of 12:05:10PM

13 days ago. I believe his first name was Michael and his 12:05:14PM

14 surname was Phillipou. 12:05:18PM

15 So was he your first point of contact or was Mr Ghaly your 12:05:27PM

16 first point of contact?---I understand that Mr Ghaly was 12:05:38PM

17 invited to join their board and he did, and so was I, but 12:05:43PM

18 I declined. So I had peripheral chats with Mr Ghaly, but 12:05:47PM

19 my main discussions were with Michael Phillipou. 12:05:55PM

20 So you describe then in February - you say you had initial 12:05:58PM

21 discussions with Mr Ghaly and with Michael Phillipou 12:06:03PM

22 following that. What were your initial discussions with 12:06:07PM

23 Mr Ghaly?---It was about what that company was about, 12:06:10PM

24 where it was heading and what capabilities it was offering 12:06:15PM

25 the market. 12:06:20PM

26 And what was Mr Ghaly's role in the company at that stage?---At 12:06:21PM

27 that stage his only role was as a director of the 12:06:25PM

28 Directors Institute of Australia board. I don't believe 12:06:30PM

29 he had been appointed yet to Lodex. 12:06:35PM

1 So what was it that Lodex did that attracted you?---Lodex 12:06:38PM  
2 created a platform to enable transactions in digital 12:06:52PM  
3 currency between individuals and organisations. 12:06:58PM  
4 So from the council's point of view they professed to be able 12:07:02PM  
5 to implement a strategy which allows the council through a 12:07:12PM  
6 digital wallet to get paid in cryptocurrencies?---Yes. 12:07:17PM  
7 You tell me; is it more than that?---No, it is that, and that 12:07:27PM  
8 was actually part of our Smart Cities strategy which had 12:07:31PM  
9 been proposed by the officers and adopted by council. 12:07:35PM  
10 That's why I made the introduction. 12:07:38PM  
11 You were on the Smart Cities committee, were you?---I was on 12:07:40PM  
12 the Smart Cities community committee, yes. 12:07:44PM  
13 And what was that?---That was a committee established of three 12:07:46PM  
14 councillors and committee members looking at strategies to 12:07:53PM  
15 bring Casey into the digital world and transform it into a 12:07:58PM  
16 smart city within a decade. 12:08:03PM  
17 In any event, so you first discussed with Mr Ghaly and then 12:08:06PM  
18 with Mr Phillipou what it is that Lodex does, and you've 12:08:14PM  
19 now told us; is that right?---Yes. 12:08:23PM  
20 Did you also discuss with them the prospect of them pitching 12:08:26PM  
21 their product to the council?---I believe I did, yes. 12:08:35PM  
22 And following upon that discussion did you agree that you would 12:08:41PM  
23 do what you could to smooth a way by introducing them to 12:08:50PM  
24 the appropriate council officers?---I agreed to do the 12:08:55PM  
25 introduction, which is part of the way that I always did 12:09:01PM  
26 things in Casey when there was a new idea. 12:09:06PM  
27 At the same time was it the case - sorry. After this was it 12:09:09PM  
28 the case that you were offered any role within 12:09:14PM  
29 Lodex?---Yes, I mentioned that they offered me a 12:09:24PM

1 directorship on their board which I declined. 12:09:26PM

2 Was this before or after you introduced them to the 12:09:29PM

3 council?---I can't recall the timing, Mr Tovey. 12:09:35PM

4 Were you also involved in discussing with them a proposal that 12:09:41PM

5 you would get (a) a percentage, a very small percentage, 12:09:51PM

6 of their capital raising and (b) a larger percentage of 12:10:01PM

7 any capital raising from persons whom you 12:10:08PM

8 introduced?---Not from the City of Casey. 12:10:13PM

9 No, I'm talking with Lodex. What I want to suggest to you is 12:10:15PM

10 you discussed with them a proposal whereby you would get 12:10:21PM

11 0.05 per cent of all capital raised by the company and you 12:10:26PM

12 would get 5 per cent of capital raised from individuals 12:10:33PM

13 whom you introduced. Was that something that was 12:10:37PM

14 discussed?---I believe that that was a proposal that was 12:10:42PM

15 put to me by Mr Phillipou. 12:10:46PM

16 When was that put to you?---I can't recall, Mr Tovey. 12:10:48PM

17 COMMISSIONER: Do you mean by that answer by drawing attention 12:10:55PM

18 to the fact that he put it to you that it was an uninvited 12:11:00PM

19 proposal?---I can't - I believe he spoke to me and then, 12:11:04PM

20 like I say to everybody, 'Put it to me in writing and 12:11:12PM

21 I will consider it.' But I haven't taken it any further 12:11:16PM

22 because - - - 12:11:22PM

23 That's not what I'm asking you, Mr Aziz?---I can't recall how 12:11:23PM

24 it got initiated, Commissioner. I believe he put it to me 12:11:27PM

25 first and - - - 12:11:31PM

26 I'm sorry, I don't follow that. Either you remember or you 12:11:33PM

27 don't remember?---Well, no, I don't remember. I'm trying 12:11:36PM

28 to - - - 12:11:40PM

29 All right. Well, don't. It's unhelpful for you to guess, 12:11:41PM

1 Mr Aziz. I only asked you that question because you 12:11:45PM  
2 seemed to make a point of the fact he put this to you. 12:11:49PM  
3 That would only be relevant if it came out of the blue to 12:11:53PM  
4 you, and that's what I was asking you and you seemed to be 12:11:57PM  
5 saying, 'I don't remember whether we had a discussion 12:12:00PM  
6 before he put that proposal'?---And I don't. But I do 12:12:03PM  
7 remember him writing to me about it. 12:12:06PM  
8 MR TOVEY: You see, I'd suggest that from the documentation we 12:12:13PM  
9 have available the situation was that the organisation, 12:12:17PM  
10 that is Lodex, was given the opportunity to brief council 12:12:32PM  
11 officers on their proposal in March and then it was in 12:12:41PM  
12 April that it was discussed that you become a member of 12:12:45PM  
13 the board and that you get a percentage of the capital 12:12:51PM  
14 raising. Isn't it consistent with your 12:12:54PM  
15 recollection?---Probably. 12:12:59PM  
16 COMMISSIONER: And you don't have any difficulty with that 12:13:02PM  
17 process again, that you're engaged in developing potential 12:13:04PM  
18 commercial interests of your own in the context of that 12:13:11PM  
19 entity engaging in discussion with council officers about 12:13:18PM  
20 something that the council might get involved in?---No, 12:13:22PM  
21 I don't, because otherwise we - - - 12:13:26PM  
22 Well, obviously you don't. Obviously you don't. But what 12:13:29PM  
23 about on reflection now, Mr Aziz? Can you take a step 12:13:32PM  
24 back from all of these commercial activities where you 12:13:38PM  
25 sought to derive a personal benefit - whether you did or 12:13:43PM  
26 you didn't in the end is not to the point - all of those 12:13:48PM  
27 commercial interests where you sought to derive a benefit 12:13:51PM  
28 which involved the council, do you not see a pattern that 12:13:54PM  
29 exists here that was inappropriate?---No. The only 12:13:58PM

1 pattern that exists is the fact that I was introducing 12:14:02PM  
2 innovation and ideas to the officers. Lodex is not the 12:14:07PM  
3 only provider of a digital wallet and certainly the 12:14:14PM  
4 council explored other options. But if an opportunity 12:14:17PM  
5 comes across my desk, I always wanted to bring it to the 12:14:21PM  
6 forefront of thinking in the City of Casey because it's 12:14:25PM  
7 all about innovation. I didn't see anything (indistinct) 12:14:29PM  
8 with that. 12:14:32PM  
9 And what I'm wanting you to focus on is this notion if the 12:14:32PM  
10 opportunity presented itself that might benefit the City 12:14:38PM  
11 of Casey, you also utilised those opportunities to benefit 12:14:44PM  
12 yourself?---No, I did not, Commissioner. 12:14:48PM  
13 Well, that regrettably is the strong impression with which I am 12:14:52PM  
14 left?---That's regrettable indeed because that wasn't the 12:14:57PM  
15 case. 12:15:00PM  
16 Yes, Mr Tovey. 12:15:01PM  
17 MR TOVEY: So, having discussed with them then getting a 12:15:06PM  
18 percentage of their capital raising and being on the 12:15:15PM  
19 board, did you ultimately accept an offer that for - and 12:15:20PM  
20 this was in June of 2018 - that for a contribution of 12:15:27PM  
21 \$50,000 you would get an allocation of shares with a face 12:15:33PM  
22 value of \$200,000?---Yes, I did. 12:15:39PM  
23 And that was in the form of some form of digital currency, was 12:15:44PM  
24 it, which was going to be tradable by you from - I think 12:15:56PM  
25 it was November the following year or 12:15:59PM  
26 thereabouts?---I believe so, yes. 12:16:03PM  
27 So here you are in the middle of negotiations between Lodex and 12:16:09PM  
28 the council accepting a proposition which gives you, on 12:16:17PM  
29 the face value of the documents that you then had, a 12:16:26PM

1 profit of \$150,000?---That is entirely incorrect. There 12:16:31PM  
2 were no negotiations beyond the first meeting that they 12:16:39PM  
3 had, and there was no profit of \$150,000. I'm even not 12:16:43PM  
4 sure if I can get my initial \$50,000 back because - - - 12:16:49PM  
5 I'm not saying that you did get a profit. What I'm saying is 12:16:54PM  
6 for \$50,000 you understood yourself to be getting a 12:16:57PM  
7 75 per cent discount at the time, didn't you?---Yes 12:17:03PM  
8 (indistinct). 12:17:08PM  
9 And you wouldn't have done that unless you thought that the 12:17:08PM  
10 investment of \$50,000 was in fact reflecting the 12:17:11PM  
11 transmission of you of notes or shares to a value far in 12:17:18PM  
12 excess of that?---Yes, and most start-up - - - 12:17:24PM  
13 I just wanted to talk about at the time. So do you agree that 12:17:30PM  
14 at the time you got notes or shares with a face value of 12:17:34PM  
15 \$200,000?---That I paid for and anyone would have gotten 12:17:38PM  
16 the same deal as me, and indeed a lot of investors got 12:17:43PM  
17 exactly the same deal. 12:17:47PM  
18 Whether they did or they didn't, that's not what I asked you. 12:17:48PM  
19 For \$50,000, you've made on paper in the space of one day 12:17:52PM  
20 \$150,000. That's why you did the investment, wasn't 12:17:58PM  
21 it?---Exactly, on paper. 12:18:00PM  
22 Yes. Okay. 12:18:03PM  
23 COMMISSIONER: Mr Aziz, did you at any stage disclose to fellow 12:18:05PM  
24 councillors or council officers, anyone who had an 12:18:10PM  
25 interest in the Lodex matter, the private arrangement that 12:18:15PM  
26 you were pursuing with them?---No, I didn't need to 12:18:19PM  
27 because no one had an interest beyond that initial 12:18:23PM  
28 meeting. 12:18:26PM  
29 Yes, thank you. 12:18:26PM

1 MR TOVEY: Could the witness please be shown court book page 12:18:35PM  
2 6231 to 6247? 12:18:46PM  
3 COMMISSIONER: I should have asked, Mr Aziz, how are you 12:19:05PM  
4 feeling at the moment? Are you happy to continue for a 12:19:08PM  
5 while or would you like a break?---I would like this 12:19:10PM  
6 finished as soon as possible. So I would like - - - 12:19:13PM  
7 I have no doubt of that. But speaking in the more immediate 12:19:16PM  
8 terms, do you want to have a break at the moment?---At the 12:19:21PM  
9 moment I'm okay. 12:19:24PM  
10 Very good?---I will indicate to you if I'm not feeling well. 12:19:27PM  
11 Yes. 12:19:30PM  
12 MR TOVEY: Now, if we could just look at 6231. That's an email 12:19:38PM  
13 from Mr Ghaly, who you've already mentioned, to yourself, 12:19:42PM  
14 copied to Mr Phillipou, about 'Wallet and debit card 12:19:51PM  
15 solution - City of Casey'. That email says, 'Dear Sam, 12:20:02PM  
16 thank you for our recent discussion about you championing 12:20:06PM  
17 the City of Casey as the pilot government client of the 12:20:10PM  
18 Blockloan solution for a digital wallet and credit card, 12:20:13PM  
19 and I attach a draft proposal for your consideration.' 12:20:17PM  
20 And indeed that's attached. And then he says that they'll 12:20:20PM  
21 discuss other corporate clients with you. He says, 12:20:27PM  
22 'I have shared our discussion with Michael and we reserve 12:20:30PM  
23 the right to discuss the cost model for the City of Casey, 12:20:34PM  
24 and the revenue share model for yourself, with you. We 12:20:39PM  
25 appreciate that the City of Casey has a resident 12:20:48PM  
26 population of 330,000 people,' et cetera, et cetera. Now, 12:20:50PM  
27 what's all this about, you having had a discussion about 12:20:58PM  
28 how much it's going to cost the City of Casey and you 12:21:03PM  
29 sharing the revenue?---No. He was putting a proposal to 12:21:06PM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

me and he made an inappropriate suggestion, and I said to  
him that that would not be appropriate in the case of the  
City of Casey for me to be sharing any of the revenue if  
the City of Casey had in fact selected them as a vendor.  
So that never went anywhere because I advised  
him - I recall this email, but I advised him that that  
would not be appropriate for him to even suggest that.  
Would you listen then to tab 258. I tender that document,  
Mr Commissioner.

COMMISSIONER: Yes. That will be exhibit 291.

#EXHIBIT 291 - Email from Mr Ghaly to Mr Aziz, court book pages  
6231-6247.

COMMISSIONER: Mr Aziz, I'm sure you left the Commission a  
moment ago with the impression that there was a one-off  
isolated conversation by someone from Lodex with a council  
officer and that was it. This rather suggests something  
more than that, doesn't it?---It does, and because nothing  
happened I don't remember the details or the dates of when  
things like meetings and presentations and suggestions  
were put forward. But this did not progress because the  
City of Casey administration chose for it not to progress.  
No, but do you understand why these questions are being  
pursued? It's not about whether something came of it;  
it's about what you do when there's a commercial  
opportunity in which you can benefit, what you do when the  
person who has a financial interest is seeking to pursue  
an issue with the council. It's what you do in relation  
to your personal possible benefit that's of interest. Do  
you not see that pattern?---No, I don't, because it

12:21:10PM  
12:21:14PM  
12:21:17PM  
12:21:20PM  
12:21:25PM  
12:21:28PM  
12:21:31PM  
12:21:37PM  
12:21:45PM  
12:21:48PM  
12:21:54PM  
12:18:45PM  
12:21:56PM  
12:21:59PM  
12:22:03PM  
12:22:07PM  
12:22:12PM  
12:22:18PM  
12:22:22PM  
12:22:26PM  
12:22:32PM  
12:22:36PM  
12:22:39PM  
12:22:43PM  
12:22:47PM  
12:22:53PM  
12:22:57PM  
12:23:00PM  
12:23:04PM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

depends on each situation, Commissioner.

Yes, and as you've said over and over in relation to various commercial matters which generated a potential personal financial benefit for you, it didn't come to anything. But the point is it's what you're doing in those arrangements that's of relevance. Don't you see that?---Yes, I see that Commissioner.

Very good.

MR TOVEY: Thank you. Can you listen to this, please, and follow it on the transcript? This is a conversation between Mr Aziz and Mr Ghaly on 29 November of 2018. So it's shortly after the email that we've just been looking at.

(Audio recording played to the Commission.)

MR TOVEY: So it would appear from that, Mr Aziz, from what Mr Ghaly says, he's taken too much liberty by actually mentioning an arrangement which should have only been mentioned between you in direct face-to-face conversation, and that arrangement was a kickback of a percentage of what the council was paying. That's the way in which I suggest to you that conversation goes?---Absolutely not true.

And I suggest to you you knew that's what was being suggested in the initial email and that's why you were so upset because you had in writing a record of your previous arrangement, which you knew, once recorded in an email, was likely to end up with you being gaoled for it; it was bribery that you'd been discussing?---There was no previous arrangement. They put all sorts of propositions

12:23:11PM  
12:23:13PM  
12:23:18PM  
12:23:24PM  
12:23:29PM  
12:23:32PM  
12:23:35PM  
12:23:36PM  
12:23:41PM  
12:23:43PM  
12:23:48PM  
12:23:57PM  
12:24:01PM  
12:24:11PM  
12:26:56PM  
12:27:02PM  
12:27:09PM  
12:27:13PM  
12:27:20PM  
12:27:23PM  
12:27:28PM  
12:27:32PM  
12:27:33PM  
12:27:37PM  
12:27:42PM  
12:27:47PM  
12:27:52PM  
12:27:59PM  
12:28:01PM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

to me. All I wanted was for the council to consider  
blockchain technology, and what he wrote to me was  
inappropriate and I advised him of that. It's very clear  
in that conversation that I say that I have to play by the  
rules and that the administration will be making the  
decision, not me. All I can do is (indistinct) to the  
administration so that they know about that technology and  
can consider it as part of a raft of options. That's what  
I get from that conversation.

COMMISSIONER: And what I get from it, Mr Aziz, is it's your  
rules, though. These are not the rules by which a  
councillor is meant to conduct themselves. They're your  
rules because you didn't - you still don't see that you  
had a conflict of interest in any way presenting this  
issue to the council or to council officers without full  
disclosure of your potential private  
arrangement?---Commissioner, I say in the conversation  
that I'm invested in the technology so I need to be  
careful because there are conflict of interest provisions.  
But those provisions do not apply when you're introducing  
proposals to officers. They apply when you come to vote  
on a matter in the council chamber - - -

No, Mr Aziz. If a councillor is wanting to ensure that there's  
a full understanding and disclosure of their private  
financial interest in a party who's coming to the council  
with a proposal you should be disclosing it. We've seen  
how you operate with the council officers. Do you recall  
your conversation with Mr Fitchett when you were advancing  
Mr Nehme's proposal?---Yes.

12:28:04PM  
12:28:08PM  
12:28:11PM  
12:28:14PM  
12:28:18PM  
12:28:21PM  
12:28:26PM  
12:28:29PM  
12:28:33PM  
12:28:35PM  
12:28:40PM  
12:28:44PM  
12:28:48PM  
12:28:52PM  
12:28:56PM  
12:29:01PM  
12:29:06PM  
12:29:10PM  
12:29:14PM  
12:29:18PM  
12:29:23PM  
12:29:26PM  
12:29:31PM  
12:29:37PM  
12:29:43PM  
12:29:48PM  
12:29:54PM  
12:29:58PM  
12:30:01PM

1 And you thought that that was an entirely appropriate way in 12:30:04PM  
2 which to deal with the council officer?---Yes, because 12:30:07PM  
3 it's not my decision. It's his decision. 12:30:11PM  
4 No, no, but what you were doing with him was advocating as 12:30:14PM  
5 persuasively and effectively as you could that he adopt 12:30:18PM  
6 Mr Nehme's proposal?---Yes, and I've done that on a 12:30:23PM  
7 million other occasions with a host of issues. 12:30:27PM  
8 Correct. And you've never seen that there's anything 12:30:30PM  
9 inappropriate in that course?---No. The only 12:30:34PM  
10 inappropriateness would be if this had then proceeded and 12:30:36PM  
11 I didn't declare a conflict of interest at the time the 12:30:38PM  
12 council was making the decision. 12:30:41PM  
13 Yes. Yes, Mr Tovey. 12:30:43PM  
14 MR TOVEY: Did you ever declare the interest that you had 12:30:49PM  
15 purchased in Lodex in your ordinary return of pecuniary 12:30:53PM  
16 interests?---I can't recall. 12:30:59PM  
17 I'd suggest to you that we have the document and you didn't. 12:31:10PM  
18 Would you accept that?---If you have the document, then 12:31:14PM  
19 that would be true. 12:31:18PM  
20 Why didn't you?---Because it didn't enter my mind because to me 12:31:19PM  
21 it was an investment and in the ether. It hadn't 12:31:25PM  
22 materialised into anything. But I did declare on many 12:31:30PM  
23 occasions shares that I have had in many other companies. 12:31:33PM  
24 But this one did not register with me as something that 12:31:36PM  
25 I needed to declare. 12:31:40PM  
26 But you paid out \$50,000 of your own money for those 12:31:42PM  
27 shares?---I did - - - 12:31:48PM  
28 Are you saying that didn't register to you as a real 12:31:49PM  
29 investment?---It hadn't materialised into what it was 12:31:52PM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

promising to be.

What do you mean it hadn't materialised?

COMMISSIONER: Mr Aziz, I don't follow how it could not have - I don't follow how it couldn't have occurred to you when you've had this exchange with Mr Ghaly which drives you to the point of saying, 'If you put all this on paper the way in which you have it's not only going to reflect a conflict of interest, it will put me in gaol.' How could you not have turned your mind to whether or not you should make a declaration at least of the conflict of interest?---Because no decisions were being taken. Now, I take it Mr Tovey is talking about ordinary returns which I think have to be completed every six months. It may have simply escaped my mind to mention it when I was careful about mentioning everything else.

Yes, Mr Tovey.

MR TOVEY: Look, the ordinary return is page 4532. Could we bring that up.

COMMISSIONER: I'll mark the conversation between Mr Aziz and Mr Ghaly of 29 November 18 exhibit 292.

#EXHIBIT 292 - Conversation between Mr Aziz and Mr Ghaly of 29/11/18.

MR TOVEY: Can we just scroll down. That's your ordinary return received in July of 2018. So this is immediately after that you've paid for the shares. Could we look down, please; go down, please? And it asks you there, 'The name or description of any company or body in which you held a beneficial interest unless the total value of the interest does or did not exceed \$10,000 and the total

12:31:57PM  
12:31:58PM  
12:32:02PM  
12:32:05PM  
12:32:09PM  
12:32:16PM  
12:32:22PM  
12:32:25PM  
12:32:30PM  
12:32:32PM  
12:32:37PM  
12:32:41PM  
12:32:45PM  
12:32:48PM  
12:32:53PM  
12:32:55PM  
12:33:03PM  
12:33:11PM  
12:33:16PM  
12:33:19PM  
12:33:24PM  
12:33:21PM  
12:33:58PM  
12:34:01PM  
12:34:12PM  
12:34:18PM  
12:34:23PM  
12:34:26PM  
12:34:28PM

1 value of issued shares of the company or body exceeds 12:34:34PM  
2 \$10 million.' And you've got 'NA' there. You couldn't 12:34:39PM  
3 have, at the time you put 'NA' there, forgotten about 12:34:45PM  
4 the 50,000 that you had just invested?---Well, the capital 12:34:50PM  
5 of the company certainly didn't exceed 10 million. So 12:34:54PM  
6 maybe that's why I didn't list it. 12:34:59PM  
7 What was the total value of the share capital of 12:35:05PM  
8 the company?---I understood it was only around 12:35:11PM  
9 two million. 12:35:14PM  
10 In any event, did you ever tell anybody that you were dealing 12:35:16PM  
11 with at the council - - - 12:35:20PM  
12 COMMISSIONER: I think Mr Aziz has answered that question, 12:35:27PM  
13 Mr Tovey, no?---Well, actually, I may have mentioned it to 12:35:30PM  
14 Ms Frost to say that I got introduced to this company and 12:35:35PM  
15 I was considering investing. I may have done that. But 12:35:38PM  
16 I don't recall if I have or not. And it's impossible to 12:35:41PM  
17 recall conversations from nearly three years ago now. I'm 12:35:47PM  
18 sorry, that's my answer. 12:35:53PM  
19 MR TOVEY: I tender that return, Mr Commissioner. 12:35:57PM  
20 COMMISSIONER: What's the date of that return, Mr Tovey? 12:36:02PM  
21 MR TOVEY: The return is 4 July 2018. 12:36:05PM  
22 COMMISSIONER: Thank you. That will be exhibit 293. 12:36:14PM  
23 #EXHIBIT 293 - Return dated 04/07/18. 12:36:18PM  
24 MR TOVEY: Now, I want to take you now to another company who 12:36:27PM  
25 had business with the Casey City Council, a company called 12:36:32PM  
26 IPsoft. They're a company who you introduced to the 12:36:46PM  
27 council?---Yes. 12:36:49PM  
28 And who did you deal with at IPsoft?---I dealt with the 12:36:51PM  
29 Victorian manager. 12:37:04PM

1 What was his name?---I believe his name was Hany Ayad. 12:37:07PM  
2 That's H-a-n-y A-y-a-d?---Yes. 12:37:13PM  
3 Yes?---And then there was a gentleman whose surname escapes me 12:37:19PM  
4 in Sydney who was the national manager. 12:37:23PM  
5 Yes?---And I also dealt with their chief financial officer who 12:37:26PM  
6 is based in New York. 12:37:34PM  
7 What was his name?---His name totally escapes me. 12:37:35PM  
8 Yes?---But the main dealings were with the Australian based 12:37:39PM  
9 employees or representatives. 12:37:46PM  
10 And so how did you come to meet up with Mr Ayad?---Again they 12:37:49PM  
11 approached me when they heard about the strategy of 12:38:00PM  
12 the City of Casey to become a smart city, and they 12:38:04PM  
13 discussed with me a product they've got which is robotic 12:38:09PM  
14 technology by the name of Amelia. 12:38:14PM  
15 When you say they discussed that with you did you meet with 12:38:16PM  
16 them to see what it was that they had to offer?---Yes, 12:38:20PM  
17 I did. 12:38:25PM  
18 And where did you meet with them?---We met at a cafe. I can't 12:38:26PM  
19 recall the initial meeting. 12:38:31PM  
20 And who did you meet with?---Mr Ayad. 12:38:34PM  
21 And so he told you about the products that he wanted to 12:38:38PM  
22 see - wanted to have introduced if possible to the Casey 12:38:46PM  
23 Council?---Yes. 12:38:51PM  
24 And what product was that?---A robot by the name of Amelia. 12:38:53PM  
25 And what did this robot do?---It did many things, but what we 12:38:59PM  
26 were considering it for is interface with customers, so 12:39:09PM  
27 the initial interface, and also the concluding interface 12:39:13PM  
28 in terms of transactions. And then we also consider it to 12:39:19PM  
29 be applied to functionalities that council does, you know, 12:39:24PM

1 cat and dog registrations, minor planning applications 12:39:30PM  
2 that might take an officer, you know, half a day or a 12:39:34PM  
3 quarter of a day to determine. There was a whole range of 12:39:37PM  
4 things that we were considering it for and it was part of 12:39:41PM  
5 a trial. 12:39:44PM  
6 COMMISSIONER: You keep saying that 'we are considering'. Who 12:39:47PM  
7 is the 'we' there, Mr Aziz?---That being all of the City 12:39:49PM  
8 of Casey administration as in councillors and staff. 12:39:56PM  
9 MR TOVEY: And so was it the case that in February of 18 you 12:40:02PM  
10 briefed Sheena Frost and others about the proposal that 12:40:09PM  
11 the Amelia pilot be set up?---Yes, I did. 12:40:17PM  
12 And you provided her with material coming from Mr Ayad?---Yes, 12:40:21PM  
13 I did. 12:40:31PM  
14 And that was material which had been emailed to you; you made 12:40:31PM  
15 no secret of the fact that Mr Ayad had come to you and 12:40:36PM  
16 provided this material?---I believe so, yes. 12:40:39PM  
17 And then in March we have Sally Curtain noting that the idea to 12:40:45PM  
18 use or to consider the Amelia proposal was something that 12:41:00PM  
19 came from you. You wouldn't suggest that was incorrect, 12:41:05PM  
20 I take it?---No, that's absolutely correct. 12:41:09PM  
21 Now, in October of 2018 you and Mr Ayad and Mr Allsop were 12:41:16PM  
22 communicating about the way in which tenders might work, 12:41:26PM  
23 the way in which funding might be appropriated to provide 12:41:31PM  
24 for the Amelia pilot?---Sorry, Mr who, sorry? 12:41:34PM  
25 Mr Allsop, council officer, yourself and Mr Ayad were involved 12:41:40PM  
26 in I'd suggest a number of discussions?---Yes, yes. 12:41:46PM  
27 Then on 18 December of 2018 you in fact sponsored, did you not, 12:41:50PM  
28 a council vote to expand the council's artificial 12:42:21PM  
29 intelligence capabilities which of course related to the 12:42:28PM

1 Amelia project?---Not just Amelia, but yes. 12:42:32PM  
2 Then in March of 2019 you were on a committee seeking to have 12:42:36PM  
3 funded a trip to the United States where you were going to 12:42:50PM  
4 attend a conference relating to something to do with Smart 12:42:58PM  
5 Cities?---I was invited to speak at that conference. 12:43:05PM  
6 And you wanted the council to pay for it, for yourself and 12:43:09PM  
7 others?---Yes, that's normal process. 12:43:13PM  
8 And they in fact did that?---They did indeed, yes. 12:43:17PM  
9 And part of that project was to attend the IPsoft digital 12:43:20PM  
10 workforce summit?---Yes. 12:43:29PM  
11 And you did that?---No, I didn't attend it. 12:43:32PM  
12 All right. What was it, the IPsoft digital workforce 12:43:36PM  
13 summit?---It was an international symposium they hold 12:43:44PM  
14 every year where they discuss emerging technologies in 12:43:48PM  
15 relation to artificial intelligence and its application in 12:43:53PM  
16 a range of industries, including government and the 12:43:58PM  
17 private sector, and they wanted me to speak about the 12:44:00PM  
18 vision of the City of Casey in adopting this technology 12:44:06PM  
19 and also the vision generally for government agencies in 12:44:12PM  
20 adopting artificial intelligence to improve productivity. 12:44:15PM  
21 So you discussed that with people from IPsoft, had you?---And 12:44:19PM  
22 with council. 12:44:25PM  
23 Yes. But for some reason you didn't get to do that?---No, 12:44:27PM  
24 I didn't. 12:44:35PM  
25 I'm sorry, there was a report put in in May following the trip, 12:44:35PM  
26 a normal report that people put in after a trip; is that 12:44:45PM  
27 the situation?---Yes. You have to report after every 12:44:50PM  
28 international - - - 12:44:52PM  
29 My note was that the report included reference to that meeting, 12:44:53PM

1 but I might be wrong. I am wrong about that then, am 12:44:57PM  
2 I?---Are you speaking about the conference in New York? 12:45:01PM  
3 Yes, the digital workforce summit?---Okay. So I travelled with 12:45:04PM  
4 three councillors - two other councillors. 12:45:10PM  
5 Yes?---And unfortunately on the day of my arrival I suffered 12:45:12PM  
6 heart failure, was hospitalised for about five days - - - 12:45:16PM  
7 So because of health reasons you weren't able to do what you 12:45:22PM  
8 anticipated doing?---Yes, I had massive heart - - - 12:45:26PM  
9 Then did the other councillors go on to attend that digital 12:45:32PM  
10 workforce summit?---Yes, but that wasn't the only thing 12:45:35PM  
11 they were doing there. 12:45:39PM  
12 No, I understand that. And then following further 12:45:40PM  
13 documentation - so that was March 19. When you came back 12:45:50PM  
14 in April of 19 there was still negotiations going on 12:45:56PM  
15 relating - between council and IPsoft relating to the 12:46:02PM  
16 community project?---Sorry, did you say that the trip was 12:46:08PM  
17 in March 19? 12:46:14PM  
18 Yes?---No, the trip was in May 19, not March 19. 12:46:17PM  
19 Sorry, in May 19, was it? Okay. In any event, on your 12:46:22PM  
20 return - sorry, at the time of the trip, I think it must 12:46:32PM  
21 have been immediately before the trip, there were still 12:46:35PM  
22 negotiations going on between council and IPsoft 12:46:38PM  
23 concerning the Amelia pilot?---I believe so. I wasn't 12:46:42PM  
24 involved in any of that. 12:46:49PM  
25 Well, you had taken a close interest, though, in discussing 12:46:50PM  
26 this, and I can take you to documents if you want me to, 12:46:54PM  
27 with both the council and with IPsoft?---A global 12:46:57PM  
28 strategic interest, not a mechanical administrative 12:47:01PM  
29 interest. That was between the council officers and the 12:47:05PM

1 IPsoft people. 12:47:08PM

2 And indeed in June of 2018 at a council meeting I'd suggest to 12:47:09PM

3 you you moved a motion to progress - sorry, to progress 12:47:16PM

4 the Amelia pilot as a key next step in the artificial 12:47:23PM

5 intelligence - or, sorry, in the pursuit of applications 12:47:30PM

6 of artificial intelligence; would you agree with 12:47:34PM

7 that?---Based on the advice of council officers, yes. 12:47:39PM

8 COMMISSIONER: I'm sorry, Mr Aziz, why did you give the answer 12:47:46PM

9 you did just a moment ago then that you were not taking an 12:47:49PM

10 interest at the council level but it was at a much more 12:47:52PM

11 esoteric level?---No, that's not what I said, 12:47:59PM

12 Commissioner. I said I was taking a global strategic 12:48:03PM

13 interest from a council's perspective about the overall 12:48:05PM

14 utility of the technology; but the day-to-day 12:48:08PM

15 administration, the pilots that were going to be run, 12:48:13PM

16 whether in fact IPsoft would be selected as a vendor or 12:48:16PM

17 not, they were not my decisions. That's what I meant by a 12:48:20PM

18 global strategic interest; not an esoteric interest, but a 12:48:25PM

19 very keen strategic interest . 12:48:29PM

20 You understood counsel was wanting to - was asking you in the 12:48:33PM

21 context of at what level you were playing a role within 12:48:38PM

22 the council; that was your response, wasn't it?---I'm not 12:48:44PM

23 sure that I understand your question. 12:48:49PM

24 All right. No, never mind. Yes, Mr Tovey. 12:48:51PM

25 MR TOVEY: Mr Aziz, on 26 February of 2019 we have two tape 12:48:55PM

26 recorded discussions involving the - the first involving 12:49:01PM

27 you and Mr Allsop and the second involving yourself and 12:49:05PM

28 Mr Hyatt - sorry, Mr Ayad. In the first conversation that 12:49:10PM

29 was a conversation with Mr Allsop relating to a budget bid 12:49:19PM

1 and you discuss with him that the Amelia project should be 12:49:26PM  
2 done in milestones to avoid the \$150,000 tender threshold 12:49:30PM  
3 that I assume is a threshold suggesting that expenditures 12:49:39PM  
4 in excess of 150,000 had to go out to public tender. Now, 12:49:45PM  
5 did you have a conversation along those lines with 12:49:50PM  
6 Mr Allsop and then did you report on after that to Mr Ayad 12:49:54PM  
7 to keep his prices below \$150,000?---I don't believe 12:49:59PM  
8 that's how it unfolded, no. 12:50:07PM  
9 All right. You say that there couldn't have been such 12:50:10PM  
10 conversations where you were talking with Mr Allsop about 12:50:18PM  
11 how the project should be financed?---No, there were 12:50:24PM  
12 conversations, I'm sure, but the way that you have 12:50:27PM  
13 expressed it is not what happened, to the best of my 12:50:31PM  
14 recollection. 12:50:36PM  
15 I understood you to be saying to the Commissioner you took some 12:50:38PM  
16 sort of global oversight of this project but you weren't 12:50:41PM  
17 involved in the nitty-gritty of the negotiations?---Yes. 12:50:48PM  
18 All I'm suggesting to you - I'll play these conversations if we 12:50:54PM  
19 have to - that it is absolutely clear from two 12:50:59PM  
20 conversations that you were talking to both councillors 12:51:03PM  
21 and then to Mr Ayad about specific matters relating to the 12:51:09PM  
22 way in which the project should be tendered and the sums 12:51:14PM  
23 of money that would be involved. Now, do you deny that 12:51:21PM  
24 that was the case?---No, I don't deny it. But I would 12:51:25PM  
25 have done that on the advice of a council officer, because 12:51:30PM  
26 they may have selected IPsoft for the trial already. So 12:51:34PM  
27 I was explaining to Mr Ayad perhaps how the process works 12:51:39PM  
28 and - - - 12:51:44PM  
29 If you were involved at that level it gives the lie to what you 12:51:44PM

1 were just saying to the Commissioner before I put this 12:51:48PM  
2 conversation to you then, doesn't it?---No, it doesn't 12:51:51PM  
3 because - - - 12:51:54PM  
4 You were involved in a more practical level than you would 12:51:55PM  
5 admit?---No, because the project had very deep reach and 12:51:59PM  
6 those negotiations about budgetary matters and how it 12:52:02PM  
7 would be funded and how the initial trial would be 12:52:05PM  
8 conducted are still I would classify as strategic 12:52:08PM  
9 conversations. 12:52:13PM  
10 For the transcript, Commissioner, those conversations are 12:52:16PM  
11 tabs 283 and 284. As early as November 2018 you were in 12:52:20PM  
12 discussions with people from IPsoft, were you not, about 12:52:44PM  
13 taking on a consultancy?---I can't recall. Possibly, yes. 12:52:53PM  
14 If I can just take the same - make the same observation that 12:53:07PM  
15 the Commissioner has been making. Do you have a sense of 12:53:18PM  
16 déjà vu about this? Here you are, you've got somebody, 12:53:22PM  
17 you introduce them to the council, and within a short 12:53:28PM  
18 period of time you're engaging in a personal commercial 12:53:33PM  
19 relationship with those people?---I spoke to the manager 12:53:38PM  
20 governance about that issue, the fact that there possibly 12:53:43PM  
21 could be a consultancy in relation to work they wanted me 12:53:46PM  
22 to do in the university sector, and she said to me, 12:53:49PM  
23 'You're not the decision maker so you do not need to 12:53:53PM  
24 declare a conflict of interest.' 12:53:56PM  
25 So did you receive money - sorry, that was Ms de Kretser. 12:53:58PM  
26 I think you mentioned this on a previous occasion when 12:54:06PM  
27 I pointed out those payments coming back from the 12:54:09PM  
28 repayments of the \$600,000 loan. What do you say exactly 12:54:10PM  
29 you told Ms de Kretser?---I told her that I had been 12:54:17PM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

offered the opportunity to consult to IPsoft in relation to introducing AI into the university sector, particularly in relation to the marking of assignments and matters of that nature, and that I would - it's possible that I could be paid a retainer. I had the discussion with her in May, I recall.

May of 2018 or 2019?---2019, and the reason being is that I had just come back from New York after that illness and that's how I remember that day vividly. And she said to me that because I'm not the decision maker in relation to this matter that I would not need to declare a conflict of interest.

Why was it then that if this came up in November of 18 you were mentioning it to her in May of 2019?---Because nothing was taking shape from November to May. They may have discussed it initially with me, but nothing happened in terms of progressing the discussion any further until I came back from New York.

And did you end up doing any work for IPsoft?---Yes, I did.

And what was that?---I started to work on modelling some concepts about how information technology and artificial intelligence can actually inform certain administrative processes in the university sector.

So you didn't do what you originally discussed then in terms of your consulting?---I can't remember what was originally discussed.

I thought you were going to be involved in some university project?---That's exactly right.

Were you involved in a university project some time after May

12:54:22PM  
12:54:26PM  
12:54:31PM  
12:54:34PM  
12:54:38PM  
12:54:42PM  
12:54:44PM  
12:54:51PM  
12:54:56PM  
12:55:03PM  
12:55:07PM  
12:55:11PM  
12:55:16PM  
12:55:22PM  
12:55:29PM  
12:55:36PM  
12:55:40PM  
12:55:44PM  
12:55:47PM  
12:55:52PM  
12:55:59PM  
12:56:06PM  
12:56:09PM  
12:56:11PM  
12:56:14PM  
12:56:18PM  
12:56:20PM  
12:56:25PM  
12:56:28PM

1 of 2019?---Yes, I was. It was - - - 12:56:34PM  
2 What university?---Again Southern Cross University. 12:56:38PM  
3 These are the people that you dealt with in respect of Smart 12:56:41PM  
4 Cities for Mr Woodman?---That's correct, yes. 12:56:46PM  
5 And was this specifically in respect of the IPsoft 12:56:51PM  
6 product?---Yes, it was, and about introducing a trial in 12:56:57PM  
7 that university as well. 12:57:02PM  
8 And was that successful?---No, we never got around to 12:57:04PM  
9 implementing it because everything stopped when the IBAC 12:57:10PM  
10 inquiry commenced. 12:57:14PM  
11 COMMISSIONER: What was the nature, Mr Aziz, of the consultancy 12:57:18PM  
12 arrangement?---That I would introduce them to as many 12:57:21PM  
13 decision makers as possible within the university sector 12:57:27PM  
14 and that I would develop a model for a marking system 12:57:31PM  
15 initially to run as a pilot at a university trialling 12:57:37PM  
16 Amelia by introducing a whole heap of marking algorithms 12:57:41PM  
17 into her and allowing her to mark student assignments and 12:57:46PM  
18 examining what productivity gains can be reaped from that, 12:57:52PM  
19 including financial savings for university. 12:57:56PM  
20 And how were you to be remunerated?---It was agreed that 12:58:01PM  
21 I would be put on a retainer, and part of that retainer 12:58:05PM  
22 was already paid to me. I believe that was paid in 12:58:09PM  
23 September 2019. But, because of the lack of progress on 12:58:17PM  
24 the work I have done, it's probably likely that I will 12:58:24PM  
25 have to return some of that retainer because I went 12:58:31PM  
26 overseas and I wasn't able to complete the project. 12:58:37PM  
27 Sorry, so if I have followed you correctly you engaged in 12:58:40PM  
28 discussion about a consultancy at least from May of that 12:58:47PM  
29 year when you spoke to Ms de Kretser?---Yes. 12:58:50PM

1 And you were not paid in relation to that consultancy work 12:58:54PM  
2 until September?---Yes, that's correct. 12:59:02PM  
3 And how much were you paid?---\$28,000 plus GST. 12:59:03PM  
4 And that's the only amount you've received?---Yes, that's 12:59:12PM  
5 correct. 12:59:15PM  
6 And did they understand that you were at that very same time in 12:59:15PM  
7 an arrangement with Mr Woodman in relation to a 12:59:22PM  
8 consultancy at the same university?---Yes, I told them and 12:59:24PM  
9 that actually excited them because the broader issue of 12:59:30PM  
10 Smart Cities is something that they wanted to get more 12:59:34PM  
11 involved in. 12:59:37PM  
12 And did Mr Woodman understand that you were performing this 12:59:38PM  
13 other consultancy work at the same university?---Yes, 12:59:42PM  
14 I informed him of that. I recall informing him of that at 12:59:47PM  
15 a meeting we had in his office. 12:59:52PM  
16 Yes, Mr Tovey. 12:59:54PM  
17 MR TOVEY: Would this be an appropriate time, sir? I'm about 01:00:04PM  
18 to play a tape. 01:00:06PM  
19 COMMISSIONER: How are we looking in terms of time, Mr Tovey? 01:00:14PM  
20 MR TOVEY: Good. We'll finish Mr Aziz this afternoon. 01:00:17PM  
21 COMMISSIONER: Very good. I'll adjourn until 1.45. 01:00:21PM  
22 <(THE WITNESS WITHDREW) 01:00:26PM  
23 LUNCHEON ADJOURNMENT 01:00:27PM  
24  
25  
26  
27  
28  
29