
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY, 10 DECEMBER 2020

(43rd day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH AM, QC

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

OPERATION SANDON INVESTIGATION

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

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

1 UPON RESUMING AT 1.51 PM: 01:51:35PM
2 <ANDREW NEHME, recalled: 01:51:35PM
3 COMMISSIONER: Mr Tovey, Mr Nehme, are you ready to 01:51:35PM
4 proceed?---Yes, sir. 01:51:42PM
5 Yes, Mr Tovey. 01:51:42PM
6 <EXAMINED BY MR TOVEY, continued: 01:51:42PM
7 Mr Nehme, you've told us that Pitcher Partners were the 01:51:54PM
8 accountants for the corporate entities that we've been 01:51:59PM
9 discussing; am I right about that?---For which corporate 01:52:02PM
10 entities? For - - - 01:52:05PM
11 Well, NGOC?---Nehme Group, yes. 01:52:08PM
12 And for the various Action Group of companies as they operated 01:52:14PM
13 in Victoria, were they the accountants for them as 01:52:22PM
14 well?---They were. I can't recall when we changed, but 01:52:25PM
15 they were the accountants for the Action Group entities. 01:52:30PM
16 And who's the accountants now?---HLB and - HLB and, memory 01:52:34PM
17 blank, William Buck. 01:52:50PM
18 And is that the - - -?---Sorry to interrupt. That's for the 01:52:54PM
19 non-Nehme entities. Nehme entities are still Pitcher 01:53:02PM
20 Partners. 01:53:06PM
21 Yes. And when you speak about the Nehme entities which are 01:53:06PM
22 they, other than NGOC, the Nehme Group of 01:53:09PM
23 Companies?---Nehme Group. SGN Nehme. There's a number of 01:53:15PM
24 other companies but they're all nothing to do with Action 01:53:21PM
25 Group Holdings' interest. 01:53:26PM
26 All right. What about you personally and your wife personally? 01:53:28PM
27 Do you use Pitcher Partners?---That's correct, yes. 01:53:35PM
28 Now, I just wanted to take you - you're no doubt familiar with 01:53:51PM
29 recordings of conversations between yourself and Mr Aziz 01:53:54PM

1 which took place in December of 2012 and January 01:54:00PM
2 of - sorry, December of 2018 and January of 2019?---I'm 01:54:08PM
3 aware of it. I don't know which date and - - - 01:54:16PM
4 You've been through - - -?---Yes, yes. 01:54:21PM
5 And it comprises a number of conversations which were recorded 01:54:26PM
6 at that time. Could the witness please have played 01:54:31PM
7 tab 261, which is exhibit 270. 01:54:48PM
8 MS BORG: Mr Commissioner, I notice from past transcript that 01:54:51PM
9 there's no capacity to stop at a particular point in time 01:54:56PM
10 from playing. So would you want me to raise now where 01:55:00PM
11 I think a couple of words have been put in which weren't 01:55:05PM
12 there, and I'm not sure if that's just me not being able 01:55:08PM
13 to hear it, but we've played it several times, or do you 01:55:12PM
14 want me to wait until after it's played? 01:55:16PM
15 COMMISSIONER: It would be easier to identify, Ms Borg, if we 01:55:24PM
16 play it first and then you point out where the error 01:55:27PM
17 appears to be. Would you do that? 01:55:32PM
18 MS BORG: Now or later? 01:55:34PM
19 COMMISSIONER: No, I think we'll play it first and then you can 01:55:36PM
20 identify where the - - - 01:55:38PM
21 MS BORG: I just didn't want your Honour to be - sorry, 01:55:40PM
22 Commissioner to be upset with me - - - 01:55:42PM
23 COMMISSIONER: Very good. 01:55:45PM
24 MS BORG: That's all. Thank you. 01:55:46PM
25 COMMISSIONER: Yes. 01:55:48PM
26 (Audio recording played to the Commission.) 01:56:00PM
27 MR TOVEY: That is a conversation between yourself and Mr Aziz 02:02:49PM
28 on 21 December 2018; is that right?---Sorry, you're asking 02:02:52PM
29 was that a conversation? 02:03:00PM

1 Yes?---Yes. 02:03:02PM

2 And you've rung Mr Aziz some time before this, is that right, 02:03:02PM

3 because you refer to, 'When I rang you'?---No, I think he 02:03:15PM

4 was calling me and I was returning his call. 02:03:25PM

5 Sorry, I'm talking about before this?---Yes. 02:03:27PM

6 If you look at the second line, 'God bless, God bless, that's 02:03:30PM

7 great. So, mate, I'm sorry, when I rang you I wanted to 02:03:34PM

8 catch up and see you'?---He was originally, from my 02:03:38PM

9 memory, chasing me and then I called him. And, to be 02:03:44PM

10 honest, I don't know whether I called him, discussion has 02:03:50PM

11 been had, or he's called me in this conversation - - - 02:03:54PM

12 In any event at this point in time you were looking at selling 02:03:56PM

13 your recently purchased interest in the CLC area, if we 02:04:00PM

14 could call it that, to an organisation called 02:04:07PM

15 Newmark?---That's correct. 02:04:13PM

16 And you wanted to be in a position to give them some assurance, 02:04:17PM

17 if you could, that the council didn't oppose the sorts of 02:04:23PM

18 changes they might want to make to the environment 02:04:29PM

19 there?---Newmark were looking for some comfort to commit 02:04:33PM

20 to a contract of sale from council. 02:04:36PM

21 Yes. And was that because they were proposing to develop the 02:04:40PM

22 site in certain ways and they wanted an indication that 02:04:48PM

23 what they were proposing to do would pass muster?---They 02:04:53PM

24 were looking to develop the land at the rear which is 02:05:02PM

25 known to us as Regency or Percy Trewin. 02:05:04PM

26 Yes?---And they wanted to, as you would normally do, meet with 02:05:07PM

27 council to find out to what extent they could do - 02:05:12PM

28 redevelop the whole area, the whole site, both sites. 02:05:15PM

29 And it would appear that Mr Aziz in fact did make some 02:05:17PM

1 enquiries about that matter and got back to you; is that 02:05:21PM
2 right?---Yes. 02:05:28PM
3 What was the ultimate result there?---Nothing occurred. 02:05:33PM
4 So the proposed purchasers didn't go through with the 02:05:39PM
5 deal?---That's correct. It didn't even get to contract. 02:05:47PM
6 It fell over at due diligence stage. 02:05:49PM
7 Yes?---And then it fell over. 02:05:51PM
8 What was the - were they going to buy the whole of the area, 02:05:53PM
9 both the CLC and the other area?---And Regency, correct. 02:05:59PM
10 And what was it - how much was that going to be for, in round 02:06:02PM
11 figures?---For both? Can I give you - it will be very 02:06:09PM
12 round. It won't be accurate; is that okay? 02:06:20PM
13 Very round is good?---Sorry? 02:06:24PM
14 Very round is good?---Seventy millionish for both. 02:06:28PM
15 All right. So that didn't go through - - -?---No, it only 02:06:32PM
16 got - just to be clear, Mr Tovey, it only got to a letter 02:06:36PM
17 of offer, and it was subject to talking to council and 02:06:39PM
18 doing their due diligence. And then that got extended, 02:06:44PM
19 from my memory, into January. And then the deal fell 02:06:48PM
20 over. And I actually didn't get a reason why it fell 02:06:52PM
21 over. 02:06:55PM
22 Is the Action Group still in possession of that land or has it 02:06:57PM
23 been sold?---Casey Lifestyle Centre has been sold. 02:07:03PM
24 And how much was that sold for?---Approximately 57 million. 02:07:09PM
25 And when was that?---Sorry, if I can just refer to my notes 02:07:19PM
26 I can tell you. December 18, 57 million. 02:07:27PM
27 Yes. And what about the remaining land?---The remaining land 02:07:35PM
28 as at today we still own, the Regency land or Percy 02:07:43PM
29 Trewin. 02:07:47PM

1 Yes?---That was contracted to Kaufland over a year ago, and 02:07:47PM
2 I can't give an exact date but let's say over a year ago, 02:07:56PM
3 probably more, on a conditional basis. And Kaufland 02:08:00PM
4 obviously, as you may be aware, pulled out of Australia 02:08:05PM
5 and handed the land back to us. 02:08:08PM
6 And what was that going to be? What was the price that had 02:08:11PM
7 been agreed on there or that was being proposed?---Circa 02:08:15PM
8 either 11 or 12 million, from memory. Don't hold me to 02:08:20PM
9 that number, but within that region of 11 to 12 million. 02:08:24PM
10 Had there been any substantial renovation or work done on 02:08:28PM
11 the - on either of those sites between 2016 and 02:08:33PM
12 2019/2020?---Nothing on Casey, on the Lifestyle Centre. 02:08:44PM
13 Percy Trewin was the council's offices, and part of 02:08:47PM
14 the deal was council signed up for 12 months to remain 02:08:52PM
15 there. That was part of the deal. 02:08:56PM
16 Yes?---And then they removed the buildings and gave us a clean 02:08:58PM
17 bill of health for the site. So we ended up with an empty 02:09:04PM
18 piece of land. 02:09:08PM
19 And I take it that was commercial land, was it?---Yes, it was. 02:09:09PM
20 So on 12 December you speak to Mr Aziz. He wants to put a 02:09:20PM
21 proposition to you, and that proposition is put on page 2 02:09:45PM
22 of the transcript. 02:09:50PM
23 MS BORG: 21 December, sorry. You said the 12th. It's 02:09:54PM
24 21 December was the phone call, wasn't it? 02:09:57PM
25 MR TOVEY: 21 December. Did I say something different? 02:10:01PM
26 MS BORG: Yes, you said 12th. Sorry, I just wanted to make 02:10:04PM
27 sure it's corrected. 02:10:07PM
28 MR TOVEY: And you see he puts forward to you, you as a dear 02:10:17PM
29 brother and as a businessman, that he wants a loan for two 02:10:24PM

1 years. He wants \$500,000. He's going to repay \$23,000 a 02:10:30PM
2 month. And he at line 36 indicates that he will provide 02:10:37PM
3 security by way of a mortgage, because the property is 02:10:44PM
4 valued at about 760,000. That's generally what he was 02:10:49PM
5 asking you for; is that right?---Yes. 02:10:56PM
6 Then you indicate, 'I can get you the money from a funder, like 02:11:01PM
7 a reasonable funder.' Were you there talking about a 02:11:06PM
8 funder who was a personal acquaintance of yours or a 02:11:12PM
9 funder being somebody who was in the business of lending 02:11:16PM
10 on residential property?---He's a broker, one of the 02:11:21PM
11 brokers that we use. 02:11:26PM
12 Then over the page, page 3, he went on further about the 02:11:30PM
13 difficulty he was facing because he didn't have a source 02:11:40PM
14 of income that was demonstrable over - for a period 02:11:44PM
15 greater than 12 months, and then he talks about getting 02:11:51PM
16 funding from someone somehow. This is at line 65, he 02:12:01PM
17 needs the facility for two years. Then you say, 'The guy, 02:12:08PM
18 he's actually jumped on a boat today.' Who's the 02:12:14PM
19 guy?---Kevin Wheatley from Bayside Mortgages. 02:12:21PM
20 And so you then go on to have a further discussion about when 02:12:24PM
21 he's going to have money and when he's going to get back. 02:12:27PM
22 So then you tell him at line 75, at the top of page 4, 02:12:33PM
23 that the broker is going to be the best bet, you're no 02:12:43PM
24 good, and you indicate at line 77 that you don't want to 02:12:50PM
25 hit the others up yet?---Line 76? 02:12:53PM
26 Sorry, line - yes. So he says, Sure.' Line 77 you say, 02:12:59PM
27 'I don't want to hit the others up yet'?---Yes. 02:13:05PM
28 Now, are the others the people you hit up for money to pay Aziz 02:13:08PM
29 in - - -?---No, other brokers. My comment there was about 02:13:12PM

1 hitting other brokers up. We use a number of brokers. 02:13:16PM
2 I didn't want to hit the others up. That's what I was 02:13:19PM
3 referring to there, Mr Tovey. 02:13:22PM
4 At this stage how long was it since you had actually met with 02:13:24PM
5 Sam Aziz?---Physically met, I can't recall. Off the top 02:13:29PM
6 of my head, I don't recall. 02:13:53PM
7 I mean, had you met him in the period of 12 months - sorry, 02:13:55PM
8 during the 2018 year, had you actually met up with 02:14:00PM
9 him?---Yes, I would have; yes. 02:14:04PM
10 Once the issue in respect of the loan had been 02:14:06PM
11 concluded?---Yes. 02:14:10PM
12 Did you - - -?---There would have been face-to-face and also 02:14:11PM
13 phone calls, Mr Tovey. 02:14:15PM
14 How regularly did you speak to him after that - sorry, I spoke 02:14:16PM
15 over you?---Sorry, there would have been phone calls and 02:14:17PM
16 face-to-face over that time. 02:14:20PM
17 And how regularly would you be in communication with him 02:14:21PM
18 face-to-face in 2018?---Not regularly. I think I was 02:14:27PM
19 happy to get my money back and just get on with my life at 02:14:36PM
20 that point, and hence why I preferred that he went to a 02:14:39PM
21 broker rather than relied on me, hence why I said I was no 02:14:44PM
22 good. 02:14:49PM
23 How regularly had you met during 2018? Had you met at all or - 02:14:50PM
24 - -?---I'm pretty sure we would have met. I can't tell 02:14:57PM
25 you exactly, but I'm sure - I'm fairly sure that we would 02:14:58PM
26 have met. Definitely spoken. 02:15:02PM
27 And how regularly would you speak?---Maybe every couple of 02:15:04PM
28 months. I don't know. I'm guessing, to be honest, 02:15:18PM
29 Mr Tovey. I don't know. I don't recall exactly when. 02:15:21PM

1 I just know that - I speak to a lot of people, and he was 02:15:24PM
2 one of them. 02:15:26PM
3 And you say, do you, that he only came to you as far as you're 02:15:29PM
4 aware because you were a friend; there was no other 02:15:39PM
5 association between you which would lead him to put a 02:15:41PM
6 proposition to you that you'll lend him half a million 02:15:47PM
7 dollars?---Correct. Well, I assume. That's - - - 02:15:51PM
8 Then we get to line 81 and you say to him, 'I don't want to hit 02:15:58PM
9 the others up yet, but there may be - there may be 02:16:02PM
10 something else we can do which we'll talk face-to-face. 02:16:07PM
11 We have an issue out there at the moment' - that was the 02:16:12PM
12 Newmark issue, was it?---Yes. Well, it wasn't - - - 02:16:16PM
13 'Out there at the moment with a potential' - - - 02:16:24PM
14 COMMISSIONER: I'm sorry, was there something else you wanted 02:16:25PM
15 to add, Mr Nehme?---No, no, that's fine; that's fine. 02:16:27PM
16 MR TOVEY: 'At the moment with a potential purchaser.' Now, 02:16:31PM
17 having said that, you then said to him, 'But I'm just 02:16:38PM
18 thinking aloud of a way of getting something,' and you're 02:16:54PM
19 talking about there of getting something for 02:16:57PM
20 Mr Aziz?---No. 02:17:07PM
21 What does 'getting something' mean?---That may be getting 02:17:07PM
22 something for Nehme Group. I don't know. 02:17:18PM
23 COMMISSIONER: Well you said - you categorically rejected 02:17:21PM
24 Mr Tovey's suggestion. So what is it you were referring 02:17:24PM
25 to, Mr - - -?---I'm trying to be precise, Commissioner, 02:17:28PM
26 and I'm saying to you as I read that, 'But I'm thinking 02:17:31PM
27 aloud of a way of getting something.' 02:17:36PM
28 As a deposit?---Yes, but I'm not - I don't get why a deposit 02:17:40PM
29 because he was - correct me if I'm wrong, he wasn't asking 02:17:44PM

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for a deposit. He was asking to refinance a loan, which
it wouldn't include a deposit. So I can only think that
was me trying to get something.
MR TOVEY: In line 81 you said, 'There's something else we can
do,' and that something else, it would appear, was getting
something for him, which was getting a deposit for him.
Rather than a loan, you're going to get him money which he
can use for the house?---But it doesn't make sense. He's
trying to refinance. You don't have a deposit for a
finance. He's trying to refinance his house. So hence my
confusion. I'm not sure why I would have spoken about a
deposit because a deposit's not - he's not buying the
house. He's financing his ex-wife out of the house.
You said these things. What did you mean? I mean, one view of
it is that you're there saying to him, 'We are' - 'In view
of the fact of the issues we have with our potential
purchaser, there's another way you can be of use, that is
something else which we can talk about face to face, and
I'm going to get you something,' being money, 'which is a
deposit.' Is there some other - - -?---No, that's not
what I meant, Mr Tovey, because why would I mention a
deposit when you're refinancing?
Just let me finish the question?---Sure.
The question is if you didn't mean that, you've done this, what
did you mean?---I can only think it would be me getting a
commission for the refinancing from the broker. That's
the only thing. But I'm not absolutely sure. But I'm
confused on why I've mentioned the deposit when a deposit
is not part of a refinancing. So I can't be clearer than

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02:17:56PM
02:18:01PM
02:18:07PM
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02:18:19PM
02:18:21PM
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02:18:30PM
02:18:33PM
02:18:37PM
02:18:42PM
02:18:49PM
02:18:53PM
02:18:58PM
02:19:03PM
02:19:06PM
02:19:09PM
02:19:13PM
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02:19:19PM
02:19:22PM
02:19:29PM
02:19:36PM
02:19:39PM
02:19:43PM

1 that. I'm confused about the wording of a deposit. 02:19:50PM

2 COMMISSIONER: Might it be a sum of money for him as distinct 02:19:56PM

3 from the mortgage?---No. 02:19:58PM

4 No?---No. Absolutely not. 02:20:00PM

5 Is there some reason why you couldn't talk about it then and 02:20:03PM

6 there but you wanted to talk face to face?---I don't 02:20:06PM

7 recall. No. No. 02:20:10PM

8 MR TOVEY: Then you spend the next two pages discussing what 02:20:20PM

9 the issue is with Newmark, which he is going to look into, 02:20:26PM

10 and then he gives you what information he has and says, 'A 02:20:36PM

11 decision's been made but it's not too late in respect of 02:20:46PM

12 the redevelopment of the area,' and then at line 144 on 02:20:49PM

13 page 6 you hesitate, you go, 'Um', which you don't see on 02:20:55PM

14 the transcript but you can hear it, and then you go on to 02:21:02PM

15 say, 'You know where I'm coming from where I'm thinking 02:21:05PM

16 you could get a bit of a kick out of,' and then he goes 02:21:11PM

17 'm-hmm', 'deposit.' So this deposit is something for 02:21:18PM

18 Aziz, we now know from that. It's a deposit for Aziz, and 02:21:22PM

19 it's a bit of a kick?---No. 02:21:28PM

20 And, as you will be aware, it's been suggested that that refers 02:21:30PM

21 to a kickback. Is there some other explanation that you 02:21:39PM

22 are able to give for there being something else, a way of 02:21:45PM

23 getting something, a deposit, a bit of a kick, which is a 02:21:53PM

24 deposit for Sam on the house or something? So what you're 02:21:59PM

25 talking about is a kick, which is a deposit for Sam on the 02:22:08PM

26 house. What does that mean? 02:22:11PM

27 MS BORG: Before Mr Nehme answers that, that's the line that 02:22:14PM

28 has a couple of words missing. It may not make any 02:22:17PM

29 difference - - - 02:22:22PM

1 COMMISSIONER: You've discussed this with Mr Nehme, have you? 02:22:23PM
2 MS BORG: Well, yes, because I wanted to see if he could 02:22:26PM
3 hear - - - 02:22:29PM
4 COMMISSIONER: That's okay. So what is it that you've agreed 02:22:29PM
5 between you - - - 02:22:33PM
6 MS BORG: Just the word 'out of' at the end of line 143, and 02:22:34PM
7 I didn't hear it again when this was played. It doesn't 02:22:39PM
8 really alter what was said on that line. 02:22:43PM
9 COMMISSIONER: Yes. 02:22:45PM
10 MS BORG: Just for accuracy. 02:22:45PM
11 COMMISSIONER: Yes. 02:22:47PM
12 MS BORG: It finishes 'could get a bit of a kick', and then 02:22:47PM
13 you've got Aziz saying 'm-hmm', and then you've got Nehme 02:22:51PM
14 goes 'deposit'. So that's - those two words 'out of' are 02:22:56PM
15 inaccurately transcribed. It doesn't change the tenor of 02:23:01PM
16 the statement, but it's just inaccurate. 02:23:04PM
17 COMMISSIONER: I'm sorry, you're saying you couldn't hear those 02:23:08PM
18 words 'out of'? 02:23:11PM
19 MS BORG: No, on the couple of times I heard it on my computer 02:23:13PM
20 and once that was played here. 02:23:17PM
21 COMMISSIONER: All right. Thank you. 02:23:20PM
22 MS BORG: It doesn't really change much, but - - - 02:23:21PM
23 COMMISSIONER: Yes. Thank you. 02:23:23PM
24 MR TOVEY: So if I could then go back and just summarise where 02:23:33PM
25 we were before we got to that particular passage. Where 02:23:36PM
26 we were was that you were considering the possibility of 02:23:39PM
27 him using a broker. You then went on to indicate that, 02:23:50PM
28 'Look, perhaps there's something else, that is something 02:23:54PM
29 other than that we can do,' relating to the issues you 02:23:58PM

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were having with the potential purchaser. All right, so
there's something else that you are proposing, is
something that Aziz can do in respect of your problems
with the potential purchaser. You then go on to say, 'I'm
just thinking out loud a way of getting something, a
deposit,' and Aziz says, 'Sure.' Now, previously you
said, 'Well, look, that wasn't,' so far as you were aware,
'a deposit to be paid to Aziz.' But then we get to line
144, where you then speak about a kick in a hesitant
manner. You then speak about that being a deposit on
Aziz's house. So it clearly was a deposit for him. You
say 'could be something', and Aziz says, 'Leave it to me.
I'll need to know more details but we really need to
probably catch up face to face.' So that's the second
time when this issue arises it is intimated that it's not
something that can be discussed then and there over the
phone. Now, that conversation would very strongly tend to
suggest that what you were doing was offering Mr Aziz a
kickback by way of some sort of compensation which he
might use as a deposit on resecuring his house in
appreciation for him helping you out with your council
problems. Is there some other explanation - - -?---Yes,
there is - sorry. Sorry, Mr Tovey.

Is there some other explanation for what - about him
getting - as to why you're speaking about him getting a
kick by way of a deposit?---I don't know why I used the
word 'deposit'. It's obviously in the call. But it was
more about Nehme Group getting a fee for
procuring - putting him up to a broker. So there was no

02:24:04PM
02:24:07PM
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02:24:28PM
02:24:32PM
02:24:39PM
02:24:46PM
02:24:53PM
02:24:57PM
02:25:04PM
02:25:07PM
02:25:11PM
02:25:17PM
02:25:20PM
02:25:32PM
02:25:38PM
02:25:42PM
02:25:53PM
02:25:56PM
02:25:59PM
02:26:02PM
02:26:10PM
02:26:12PM
02:26:19PM
02:26:23PM
02:26:30PM

1 intent of giving him anything; it was for me. Why 02:26:32PM
2 I called it a deposit, I don't know why because it's a 02:26:36PM
3 refinance, and you don't put up a deposit for a refinance. 02:26:40PM
4 So you've had the opportunity of going over this 02:26:45PM
5 conversation?---Yes. 02:26:49PM
6 In detail and trying to work through the question I'm asking 02:26:50PM
7 you now. Is that the best you can come up with; you're 02:26:53PM
8 not sure but you think that might be it?---I don't 02:26:58PM
9 know - I'll repeat again - why I use the word 'deposit' 02:27:03PM
10 because it's not a deposit. 02:27:07PM
11 But you not only use the word "deposit"; you used a deposit to 02:27:08PM
12 him. You say no - it's clear that the conversation about 02:27:12PM
13 the deposit and the kick is a kick by way of a deposit to 02:27:15PM
14 him; there's nothing about any commission for you. So 02:27:20PM
15 I might suggest to you that the explanation you're giving 02:27:27PM
16 doesn't have much validity or any validity looking at the 02:27:31PM
17 text of the conversation itself?---I think, as I said, 02:27:34PM
18 Mr Tovey, I don't know why. I was confused in using the 02:27:39PM
19 word 'deposit' when it was a refinance. Nehme Group were 02:27:43PM
20 looking to get a fee, the kick, which I call it, from the 02:27:47PM
21 financier. But, again, I wasn't interested in doing it. 02:27:53PM
22 I was putting it to someone else to earn a fee. That's my 02:27:58PM
23 best explanation to you. 02:28:02PM
24 COMMISSIONER: It's not much of one, is it, Mr Nehme?---Sorry? 02:28:04PM
25 It's not much of an explanation, is it?---Why? 02:28:07PM
26 Well, the kick is for him, not for you?---No, it's not for him, 02:28:11PM
27 Commissioner. 02:28:16PM
28 It's what you said?---No, the kick's for me, for Nehme Group. 02:28:17PM
29 'I think you could get a bit of a kick'?---Yes, I think what 02:28:22PM

1 I meant was - - - 02:28:26PM
2 That's wrong words too, is it, Mr Nehme?---I think there's a 02:28:27PM
3 lot of wrong words in here said. The deposit is a classic 02:28:33PM
4 one, Commissioner. 02:28:37PM
5 So, despite what you've said, your interpretation is this was a 02:28:37PM
6 kick for you?---Correct. 02:28:42PM
7 Right. And the deposit on the house, how do you convert that 02:28:45PM
8 into a benefit for you?---This is why I'm saying, 02:28:54PM
9 Commissioner, I don't know why I used the word 'deposit' 02:28:57PM
10 when it's a refinance. 02:29:00PM
11 It doesn't matter why you used the word 'deposit'. What 02:29:02PM
12 matters is that it was a benefit and it was going to be a 02:29:05PM
13 benefit in relation to his house. So don't get too hung 02:29:10PM
14 up on why you've chosen to use the word 'deposit'. You've 02:29:14PM
15 got no explanation - - -?---I shouldn't have used the word 02:29:17PM
16 'deposit' is what I'm saying because you don't put a 02:29:20PM
17 deposit down to refinance. So I'm not sure why I used the 02:29:22PM
18 term 'deposit'. 02:29:26PM
19 Anyway, so that's the best you can do by way of explanation for 02:29:38PM
20 what on the face of it suggests that you have a particular 02:29:41PM
21 type of relationship with Mr Aziz?---Sorry, can you repeat 02:29:44PM
22 or expand on that, Commissioner? 02:29:47PM
23 You don't know what I mean, that you don't understand when 02:29:49PM
24 I suggest to you this conversation suggests that you had a 02:29:53PM
25 particular type of relationship with Mr Aziz?---And what 02:29:59PM
26 is that type of relationship you're - - - 02:30:03PM
27 I'm asking you. If you don't know - - -?---I have a friendship 02:30:05PM
28 with him, as he said in here. 02:30:07PM
29 What were you wanting him to do?---I went to him at the start 02:30:09PM

1 of this - when he rang me about talking to or putting me 02:30:17PM
2 onto someone who Newmark could talk to. 02:30:21PM
3 What were you wanting him as a councillor to do?---To put me 02:30:25PM
4 onto someone within council for Newmark to talk to, as 02:30:30PM
5 they're a potential purchaser, and that was part of their 02:30:33PM
6 condition under their due diligence condition. 02:30:36PM
7 The prospective purchaser was wanting some comfort, some 02:30:46PM
8 indication from the council that when they proceed to 02:30:50PM
9 acquire the land and develop it that they'll be able to do 02:30:53PM
10 a particular type of development; is that correct?---I'd 02:30:57PM
11 assume so, as a normal developer would through due 02:31:03PM
12 diligence. 02:31:07PM
13 Well, I'm not interested in assumptions here, Mr Nehme. I'm 02:31:07PM
14 interested in what was going on in your mind at the time 02:31:11PM
15 you said this to Mr Aziz; do you follow?---My 02:31:16PM
16 understanding from the developer is they were looking for 02:31:19PM
17 some comfort of some sort as part of their due diligence 02:31:21PM
18 of what they could do on the land. 02:31:25PM
19 'Could you have a look at that and let me know.' So that's not 02:31:26PM
20 about you having Mr Aziz put your purchaser in touch with 02:31:34PM
21 someone; this is asking Mr Aziz to do something and let 02:31:39PM
22 you know. What is it you were wanting him to do?---No, my 02:31:43PM
23 comment there, 'Can you have a look at it and let me 02:31:48PM
24 know,' then he would come back and say, 'Look, I'll speak 02:31:51PM
25 to such and such,' or, 'I'll put you onto such and such,' 02:31:55PM
26 and let them go and talk to them. That was where I was 02:31:55PM
27 coming from on that: 'Could you have a look at it and let 02:32:00PM
28 me know.' 02:32:01PM
29 And when Mr Aziz said to you, 'Of course, it might be something 02:32:02PM

1 that we wouldn't want to let them know,' what did you 02:32:05PM
2 think he was talking about then?---I don't know. 02:32:08PM
3 Is that your honest answer? You don't know what Mr Aziz - - 02:32:14PM
4 -?---I don't know what he was referring to, Commissioner. 02:32:18PM
5 And you didn't ask him?---There was - well, there was a - I can 02:32:20PM
6 only again assume that there was a precinct plan that was 02:32:23PM
7 set. I don't know. If you go back to the conversation, 02:32:26PM
8 he was going to look into it because he wasn't sure, 02:32:30PM
9 because everyone was away. 02:32:35PM
10 Yes, but he's saying to you, 'This might be information which 02:32:36PM
11 we can't pass on to anyone'; isn't that what you 02:32:40PM
12 understood him to be saying?---Can we go back to that line 02:32:43PM
13 so I can re-read it, please? 02:32:52PM
14 Mr Nehme, you came here - obviously, given what's emerged from 02:32:54PM
15 what you've said and your counsel, you came here fully 02:32:58PM
16 knowing that you would have to answer what on the face of 02:33:01PM
17 this conversation suggests a suspicious relationship with 02:33:05PM
18 Mr Aziz, and do you really need further time to consider 02:33:12PM
19 the wording of this conversation?---You're asking me a 02:33:18PM
20 question in relation to that wording, and I'm just asking 02:33:21PM
21 whether I could re-read it. 02:33:24PM
22 Yes, certainly. What would you like to re-read?---The comment 02:33:25PM
23 you made previously about - - - 02:33:28PM
24 What's the passage you would like to look back at? 02:33:31PM
25 MS BORG: Line 131 to 134, your Honour - Commissioner, sorry. 02:33:35PM
26 COMMISSIONER: Thank you?---So you asked me, Commissioner, in 02:33:40PM
27 relation to a decision being made, is that correct, what 02:33:44PM
28 were my thoughts on that, my understanding? 02:33:49PM
29 No, I'm asking you what did you understand Mr Aziz was talking 02:33:51PM

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about when he made the comment that 'it may not be something that we can tell them about'?---So line 134 says, 'But it could be consistent with their objectives but we may not wish to tell them at this stage.' So I'm - - -
No, that's not the passage that I'm asking you about?---131?
MR TOVEY: 135, I think, Mr Commissioner, is the line that you have in mind.
COMMISSIONER: Yes.
MS BORG: That's the only passage that has 'we may not wish to tell them'.
COMMISSIONER: Yes. What did you understand Mr Aziz was saying to you there?---Whatever they're looking to do may not be consistent with the objectives of the planning that's in front of the minister, is my understanding of that.
Who may not wish to tell who? What's he talking about there?---'But we may not wish to tell them at this stage.'
I don't - my bit I take out of that, Commissioner, is that it may be - it may not be - it could be consistent with their objectives, because there wasn't a planning - it was in front of the minister, it hadn't been approved, and he wasn't sure, and I'm delving into this now, of what the objectives of Newmark was. So, rather than mentioning it now and it may not be an issue, that's how I read that, because he wasn't sure whether it had been approved or not.
Isn't he saying to you there, Mr Nehme, that, 'I'll find out the detail, and it might be that what the council has in mind is consistent with their' - the purchaser's -

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1 'objectives, but we' - the council - 'may not wish to tell 02:36:03PM
2 them that at this stage'?---But I don't think anyone knew 02:36:07PM
3 what Newmark's objectives were because no-one had met with 02:36:11PM
4 Newmark. 02:36:14PM
5 I'm sorry, I thought you had already had a discussion with 02:36:15PM
6 Mr Aziz, and I thought Mr Aziz understood, as you've 02:36:19PM
7 explained, what the purchaser had in mind by way of 02:36:24PM
8 particular development that they were wanting comfort 02:36:28PM
9 about?---So I mentioned offices and council wanted offices 02:36:32PM
10 and stuff. I hadn't seen the new plan that was out. So 02:36:39PM
11 the idea of this whole thing was to get Newmark and 02:36:42PM
12 council together and talk it through. I took it to the 02:36:45PM
13 ward member and said, 'Can you assist?' 02:36:48PM
14 What I'm asking you is whether or not the correct view of this 02:36:50PM
15 piece of the conversation is Mr Aziz acknowledging to you 02:36:53PM
16 that, while he can find out the detail, the council's 02:36:58PM
17 intentions may not be something that the council would 02:37:06PM
18 want to communicate at this stage?---I can only 02:37:10PM
19 think - - - 02:37:19PM
20 Is that not how you understood what he was saying?---My 02:37:20PM
21 understanding is the developer - if the development plan 02:37:23PM
22 hasn't been approved by the minister, then no-one really 02:37:27PM
23 knows what the objectives or what the stage is at. So 02:37:30PM
24 I don't think Mr Aziz knew at the time of what the actual 02:37:35PM
25 precinct plan looked like. 02:37:39PM
26 I'm not suggesting he did, Mr Nehme. I'm suggesting that 02:37:41PM
27 what's clear or what seems to be the case here is Mr Aziz 02:37:45PM
28 is conveying to you that he'll find out the detail for you 02:37:51PM
29 but it may not be something that the council would 02:37:54PM

1 actually want to communicate at this point of 02:37:56PM
2 time?---That's up to Mr Aziz how he works with council. 02:38:04PM
3 I just wanted to bring the potential purchaser 02:38:07PM
4 forward - - - 02:38:10PM
5 No, Mr Nehme, it's up to - you're the person he's having the 02:38:11PM
6 conversation with. You're the person who's talking about 02:38:14PM
7 seeking his assistance to do something. What did you 02:38:20PM
8 understand him to be saying?---Seeking his assistance as 02:38:23PM
9 our ward member to allow Newmark to speak to the right 02:38:27PM
10 party within council in relation to what they're looking 02:38:32PM
11 to do and get some comfort. 02:38:34PM
12 I give up, Mr Tovey. 02:38:37PM
13 MR TOVEY: Thank you. On 9 January 2019, and I'm not going to 02:38:41PM
14 play this to you, in a conversation where Mr Aziz had a 02:38:49PM
15 detailed brief, it would appear, spoke to a Mr Fitchett of 02:38:56PM
16 the - who is a council officer, about this process. You 02:39:09PM
17 recall having seen that conversation?---Yes. 02:39:13PM
18 And you agree that Mr Aziz had been given some sort of detailed 02:39:15PM
19 briefing before he had that conversation with Fitchett 02:39:24PM
20 because he knew all the details of what was being proposed 02:39:27PM
21 by you?---I don't know about a detailed briefing, but he 02:39:30PM
22 was - from my memory, I sent him - it wasn't detailed. It 02:39:37PM
23 was more plans of what they were trying to do. 02:39:41PM
24 All right. So, as you will be aware, in the course of his 02:39:45PM
25 conversation with Mr Fitchett he was suggesting that, if 02:39:50PM
26 necessary, he was prepared to move a notice of motion in 02:39:57PM
27 favour of securing the outcome that he was advocating for, 02:40:02PM
28 and indeed indicated to Mr Fitchett that the council might 02:40:11PM
29 have to re-engage their property consultants to do an 02:40:16PM

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assessment of what is actually best. All right? So what he was suggesting to Mr Fitchett was that, 'If necessary, I'll move a motion in council, and we might have to spend money on consultants to do an assessment to determine whether or not we can achieve the position where there is available the comfort,' that your potential purchaser wanted. Now, had you - I mean, if it appears that this is a fairly enthusiastic form of advocacy being undertaken, do you have any reason why that degree of enthusiasm might have been employed in circumstances where what was being proposed didn't seem to have any particular merit or lack of merit one way or the other?---Can you repeat the last bit of the question?

COMMISSIONER: What Mr Tovey is asking you, Mr Nehme, is can you understand why Mr Aziz was pursuing this issue for you with the enthusiasm that he did with Mr Fitchett?---No. But I'm not even sure whether the meeting occurred with Mr Fitchett and Newmark. I wasn't privy to that.

MR TOVEY: It's irrelevant. We're talking about what Mr Aziz did. You see, it would seem that - as you say yourself, you can't understand why he's so enthusiastic about pitching it to Mr Fitchett. One of the possibilities that we must explore is whether or not that was because the relationship he had with you made him think he was going to get money out of doing it. What do you say as to that?---No. Absolutely not.

COMMISSIONER: And you don't think Mr Aziz could have walked away from the conversation that was just played to you a few moments ago - you don't think he could have walked

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02:42:19PM
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02:42:38PM
02:42:41PM

1 away from that conversation thinking there might be a bit 02:42:44PM
2 of a kickback from him - - -?---No. 02:42:48PM
3 If he got you the information and got the council to think in 02:42:50PM
4 the direction that you were wanting?---Not as far as I'm 02:42:53PM
5 aware. But I'm not - - - 02:42:58PM
6 No, what I'm asking you is do you not accept that a reasonable 02:43:00PM
7 inference that Mr Aziz might have drawn from the 02:43:03PM
8 conversation from what you said to him was that there 02:43:06PM
9 might be a benefit - if you want to call it a deposit or 02:43:09PM
10 something; you used the word 'something' at some other 02:43:13PM
11 stage - something for him if he did what you wanted - - 02:43:18PM
12 -?---It's not for him, Commissioner. I said it was for 02:43:22PM
13 me. 02:43:24PM
14 No, I'll ask the question once more and then give up on it: do 02:43:24PM
15 you not accept that a reasonable inference from that 02:43:28PM
16 conversation was that Mr Aziz might have thought there was 02:43:31PM
17 a benefit for him personally if he did as you wanted him 02:43:35PM
18 to?---That's up to Mr Aziz to make that call, not me. 02:43:39PM
19 You don't want to express an opinion about that, 02:43:43PM
20 Mr Nehme?---I don't have an opinion on it because that's 02:43:49PM
21 up to Mr Aziz. Once again, Commissioner, I came to him 02:43:50PM
22 with a potential investor into the City of Casey, Newmark. 02:43:53PM
23 They wanted some comfort as part of their due diligence, 02:43:58PM
24 which is quite normal. I went to my ward member, 'Who do 02:44:01PM
25 they speak to? What can be done,' and I don't even know 02:44:04PM
26 whether the meeting occurred. 02:44:09PM
27 So, to use your terminology, Mr Nehme, once again you do not 02:44:11PM
28 want to grapple with the question, which is what is the 02:44:15PM
29 consequence of the language that you actually have 02:44:20PM

1 used?---Could you expand on that? 02:44:23PM

2 Yes. I'm asking you do you not accept that Mr Aziz might have 02:44:29PM

3 left that conversation with you as a result of the words 02:44:33PM

4 you used to think that there was going to be a benefit for 02:44:37PM

5 him if he went and did as you were wanting him to 02:44:41PM

6 do?---I don't believe he did, but, again, I don't know how 02:44:46PM

7 he chose to think and take that conversation. 02:44:48PM

8 Yes. I think for the record, Mr Tovey, what was Mr Aziz's 02:44:52PM

9 response to the use of the terminology 'kick'? I think 02:44:58PM

10 you put to him, did you not, that it meant a kickback, and 02:45:06PM

11 what was his response to that? 02:45:09PM

12 MR TOVEY: He denied that. 02:45:11PM

13 COMMISSIONER: Yes. 02:45:12PM

14 MR TOVEY: He couldn't explain what it was. 02:45:13PM

15 COMMISSIONER: Yes. 02:45:15PM

16 MR TOVEY: I think he said it wasn't football terminology. 02:45:20PM

17 COMMISSIONER: Thank you. 02:45:25PM

18 MR TOVEY: Mr Aziz pointed out in his conversation with 02:45:26PM

19 Mr Fitchett that he in fact had previously taken carriage 02:45:31PM

20 of the sale of the Lifestyle Centre when you bought it 02:45:39PM

21 despite strong resistance, which appears to be a reference 02:45:46PM

22 to strong resistance from council officers. Now, was that 02:45:50PM

23 the way in which he had described his achievement in 02:46:03PM

24 respect of the ultimate availability of the site you were 02:46:06PM

25 after for sale?---Sorry, that last bit, was that the 02:46:12PM

26 way - - - 02:46:19PM

27 Yes, the way he described it himself was that he took carriage 02:46:19PM

28 of the sale of the site - this is when you bought 02:46:26PM

29 it?---Yes, but he's explaining this to Mr Fitchett, 02:46:29PM

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Mr Tovey?

Sorry, this is what he's saying to Mr Fitchett?---Right.

Mr Fitchett is another council - is a person who's on - is a council officer, as you understand. So what he's saying is, as if everybody knew it, it would seem, that he took carriage of the sale of the site to you, despite strong resistance. That must have been - sorry, was that what he was reporting to you at the time, that he was involved in assisting in trying to secure the position for you where the council put the property up for sale?---There was talk, from my memory, of it wasn't an easy process, but nothing more than that.

So Mr Aziz was, in reporting back to you, saying, 'Look' - virtually - 'I'm doing a terrific job for you' or 'a very good job for you because there's strong' - - -?---No, that's - - -

'Resistance and I'm (indistinct)?---Not at all. Not at all, Mr Tovey.

Okay. Well, we'll just go on then to the final matter I want to take you to, and that's tab 66 - sorry, 266, which is exhibit 272.

COMMISSIONER: Whilst that's being played, could you just tell us, Mr Nehme, you purchased the freehold at what value? What was the purchase price for it?---The freehold of the centre, of the shopping - - -

Yes?---Of Casey Lifestyle Centre?

Yes?---For 19.755 million.

And how many years after that did you sell it?---Just bear with me. That was in 20- - the contract was signed - so bear

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02:48:08PM
02:48:11PM
02:48:16PM

1 me, Commissioner. The contract was signed on the 3rd. We 02:48:33PM
2 settled December 16, I think, and then Percy Trewin didn't 02:48:36PM
3 settle until - for a year later because council stayed 02:48:42PM
4 there. So what are we, 16, end of 16. We sold in 02:48:45PM
5 December 18. 02:48:51PM
6 For how much?---57 million. Just to be clear, Commissioner, 02:48:52PM
7 and probably more clear for the media who have probably 02:48:58PM
8 not reported correctly, surprisingly, that we purchased 02:49:03PM
9 the leasehold for 28.7 million in 2005 plus 19.755 for the 02:49:06PM
10 freehold. 02:49:18PM
11 Yes. Were you aware that the reports which the council had, 02:49:19PM
12 other than the last report which Mr Aziz secured, which 02:49:25PM
13 said that there was a huge financial benefit if the 02:49:31PM
14 council retained that freehold?---No, wasn't aware of that 02:49:34PM
15 at all. 02:49:39PM
16 Mr Aziz never communicated to you the challenge that he faced 02:49:40PM
17 in order to persuade the council to agree to the 02:49:46PM
18 sale?---No. 02:49:50PM
19 Yes. 02:49:52PM
20 MR TOVEY: Could we have played, please, tab 266, which is 02:49:54PM
21 exhibit 272. This is a conversation between yourself and 02:49:59PM
22 Mr Aziz on 9 January 2019 which is only minutes after he 02:50:08PM
23 has spoken to Mr Fitchett. 02:50:15PM
24 (Audio recording played to the Commission.) 02:50:25PM
25 MR TOVEY: Having heard that, Sam Aziz has rung you back 02:53:21PM
26 immediately after speaking to Peter Fitchett about getting 02:53:28PM
27 the form of comfort that you were after; that's 02:53:32PM
28 correct?---Comfort or arranging a meeting? 02:53:41PM
29 If you look at lines 3 through to 6 that's what he was saying. 02:53:47PM

1 He's had a chat to Peter Fitchett, who's the director of 02:53:54PM
2 planning, and he's telling him that the sale's contingent 02:53:57PM
3 on council giving some form of comfort?---Yes. 02:54:03PM
4 All right. Now, I take it that wasn't the truth; the sale 02:54:09PM
5 wasn't contingent on that at all?---No, it was part of 02:54:16PM
6 their due diligence, that's all. 02:54:19PM
7 If Mr Aziz put it on that basis that wouldn't be correct; is 02:54:22PM
8 that right?---No, as I said earlier, Mr Tovey, we didn't 02:54:30PM
9 even get to a contract stage with - we were only at a 02:54:34PM
10 letter of intent, and part of the letter of intent was to 02:54:38PM
11 get some comfort from council that at this point in time 02:54:41PM
12 in January I do recall the three months due diligence got 02:54:48PM
13 extended again for another month and after that they 02:54:54PM
14 pulled out of the deal. 02:54:57PM
15 If you go to line 8 Aziz says, 'What the buyer is looking to 02:54:58PM
16 do. He appeared a lot more receptive and it's probably 02:55:05PM
17 because of the fact that we've currently got a planning 02:55:11PM
18 review.' Then he went on to indicate that the reason that 02:55:14PM
19 was relevant because the renewal of all the employment 02:55:19PM
20 contracts of the senior planning officers is up to review. 02:55:24PM
21 What was he telling you there?---I'm not sure why that was 02:55:32PM
22 relevant to me. I didn't ask anything about the senior 02:55:36PM
23 officers. 02:55:38PM
24 He's told us that what was happening was that these people's 02:55:38PM
25 jobs were being reassessed and it would appear that what 02:55:43PM
26 he's saying to you is, 'I'm going to be making it clear to 02:55:48PM
27 people that their jobs are at risk if they don't support 02:55:53PM
28 what I want.' That's why he's saying that to you and it's 02:55:58PM
29 the only reason, I suggest to you, that he could be saying 02:56:03PM

1 that?---Mr Tovey, I didn't ask him about the staff and 02:56:06PM
2 I never have. As I go back to, I was bringing two parties 02:56:11PM
3 together. 02:56:15PM
4 He's telling you that you're going to get the right outcome 02:56:15PM
5 because the senior planning officers' jobs are subject to 02:56:18PM
6 review?---That's none of my business. 02:56:21PM
7 What I'm putting to you is that type of conversation is not a 02:56:26PM
8 conversation which involves a person like yourself, a 02:56:32PM
9 businessman, and a councillor in circumstances other than 02:56:39PM
10 the councillor being hugely obliged or feeling hugely 02:56:45PM
11 obliged to that person. A councillor, you might 02:56:49PM
12 understand, is not going to ring the normal businessman 02:56:52PM
13 who asks him to put something before council or make an 02:56:56PM
14 enquiry saying, 'Look, I'm making this enquiry and in fact 02:56:59PM
15 I'm threatening people's jobs unless they give you what 02:57:04PM
16 you want.' That denotes, does it not, a degree of craven 02:57:06PM
17 obligation to you which you say is just not justified 02:57:13PM
18 given the nature of what you're asking him?---No, it's not 02:57:21PM
19 because I don't - I didn't ask him about his staff or - 02:57:25PM
20 again, I was bringing two parties together. 02:57:29PM
21 COMMISSIONER: You understood - Mr Nehme, you understood he was 02:57:31PM
22 showing you how valuable he was; just as you did the same 02:57:35PM
23 thing to him. That's how the relationship works. You 02:57:40PM
24 tell him what things he can do for you. He tells you - he 02:57:44PM
25 might exaggerate, but he's trying to impress you with how 02:57:48PM
26 valuable he can be. Isn't that clear?---Not to me it's 02:57:52PM
27 not. I've got no reason - - - 02:57:56PM
28 Not to you it's not?---No, Commissioner, but why would I - - - 02:57:58PM
29 Please, don't answer questions with a question. Is there some 02:58:02PM

1 other explanation for why Mr Aziz is dealing with you here 02:58:07PM
2 as he was?---No. 02:58:12PM
3 He's telling you a whole lot of things he has no right to be 02:58:14PM
4 telling you. This is confidential information of the 02:58:18PM
5 council; you surely realised that. It's not for him to be 02:58:21PM
6 talking about an internal planning review that contracts 02:58:25PM
7 are in issue, is it? You surely would have appreciated 02:58:29PM
8 that?---Commissioner, did I ask him - - - 02:58:33PM
9 No, I'm not asking you what you asked him - - -?---No, but I'm 02:58:38PM
10 responding. I didn't ask him about - all I was trying to 02:58:42PM
11 do was bring two parties together. I would be interested 02:58:45PM
12 to hear his response in his transcript. Was he questioned 02:58:48PM
13 in his transcript? I would like to hear his response, 02:58:53PM
14 because I can't read anywhere where I've asked about the 02:58:55PM
15 staff. 02:58:59PM
16 I may be mistaken about this, but my recollection is I think 02:59:00PM
17 Mr Aziz, one of the few concessions that he made, was that 02:59:04PM
18 he probably shouldn't have said what he did to you about 02:59:09PM
19 these internal matters?---If that's the case, 02:59:13PM
20 Commissioner, then why are you targeting me to show 02:59:18PM
21 me - - - 02:59:21PM
22 He's doing exactly what you told us you probably did with 02:59:21PM
23 Sheikh Mubarak. You embellish things. You try to make 02:59:25PM
24 out that you're providing value?---My relationship with 02:59:29PM
25 Sheikh Mubarak, Commissioner, a lot of people don't 02:59:34PM
26 understand and it's nobody's business. Just so you 02:59:38PM
27 understand for your information there's a very different 02:59:43PM
28 relationship that culturally, morally is very different 02:59:46PM
29 that people won't understand. 02:59:52PM

1 Be that as it may, Mr Nehme, I'm taking your words at their 02:59:53PM
2 face value, that when you yesterday sought to explain part 02:59:59PM
3 of what you passed on to him you said you thought you may 03:00:04PM
4 have been embellishing things, and I'm simply reminding 03:00:08PM
5 you of that when you're asking why would Mr Aziz be saying 03:00:11PM
6 these things to you?---So are you saying, Commissioner, 03:00:15PM
7 that Mr Aziz is embellishing? 03:00:20PM
8 I'm saying to you that Mr Aziz is trying to show you why he is 03:00:23PM
9 of value to you, just as you responded in the first 03:00:26PM
10 conversation to show him how you could be of value to him. 03:00:32PM
11 That's the way you operate. Do you have anything to say 03:00:36PM
12 about that?---No. Sorry, is that a question or is that 03:00:46PM
13 just a comment you're making, Commissioner? 03:00:49PM
14 I'm asking you to respond to it. I'm suggesting - - 03:00:52PM
15 -?---I don't have a response because it's an assertion 03:00:53PM
16 from you. So how would you like me to respond? 03:00:55PM
17 I'm giving you the opportunity now to respond - - 03:00:59PM
18 -?---I disagree with what you're saying is my answer. 03:01:02PM
19 Very good. Yes, Mr Tovey . 03:01:06PM
20 MR TOVEY: In the course of that first page, at lines 14 03:01:14PM
21 through to 17, Mr Aziz is bragging to you that, 'We're 03:01:17PM
22 going to use this opportunity' - i.e. the shadow over the 03:01:26PM
23 jobs in the planning department - 'as an opportunity to 03:01:33PM
24 get the right outcome. Remember the resistance we had in 03:01:38PM
25 terms of the sale of the lifestyle centre.' So what he's 03:01:41PM
26 saying to you there is, 'Look, remember all the resistance 03:01:47PM
27 we got from these council people at the time of the 03:01:51PM
28 lifestyle centre? But we got through that together, and 03:01:55PM
29 now because of the fact that their jobs are on the line 03:01:58PM

1 this is an opportunity to brain them or this is an 03:02:02PM
2 opportunity to overcome them and get the right outcome.' 03:02:07PM
3 COMMISSIONER: Mr Tovey, Mr Nehme has said repeatedly that he 03:02:10PM
4 was never told of any of these obstacles. So this would 03:02:15PM
5 have been news to him. 03:02:19PM
6 MR TOVEY: Yes, well - - - 03:02:21PM
7 MS BORG: Commissioner, sorry - - - 03:02:25PM
8 MR TOVEY: Was this all news to you? 03:02:27PM
9 COMMISSIONER: Just a moment. Yes, Ms Borg? 03:02:29PM
10 MS BORG: He did say that he knew that it was difficult, but he 03:02:31PM
11 said he didn't know any more than that, to be accurate. 03:02:34PM
12 COMMISSIONER: Yes, yes. This sort of detail I think he's said 03:02:38PM
13 a number of times both today and yesterday that he wasn't 03:02:41PM
14 aware of staff opposition, he wasn't aware of reports that 03:02:45PM
15 the council had opposing the sale of the freehold, so this 03:02:49PM
16 would have been news to him. I'll take it that's right, 03:02:53PM
17 is it, Mr Nehme?---Sorry - - - 03:03:08PM
18 I take it you didn't know what Mr Aziz was talking about when 03:03:10PM
19 he said 'remember the difficulties that we had'?---I took 03:03:13PM
20 that as I always knew from my difficulties and the issues 03:03:17PM
21 in the past from day one council never wanted to sell this 03:03:21PM
22 asset, the freehold. It's always been difficult. The 03:03:25PM
23 freehold has always been the difficult activity. 03:03:31PM
24 Yes?---But I don't know, Commissioner, the internal politics 03:03:36PM
25 and neither is it my business. 03:03:41PM
26 Yes, Mr Tovey. 03:03:46PM
27 MR TOVEY: Then he goes on to tell you time and time again that 03:03:47PM
28 he doesn't want to be out front on this; he's going to be 03:03:51PM
29 in there fighting in the background. Did you understand 03:03:57PM

1 him then to be saying, 'Look, I can't be seen to be out 03:04:03PM
2 front on this; I have to be - to be effective I need to 03:04:08PM
3 take a position in the bushes, camouflage my position'? 03:04:15PM
4 Is that what that was about?--My understanding of that is 03:04:23PM
5 he didn't want to be seen to be conflicting in any way. 03:04:27PM
6 That's the way I saw it, which hence I remember saying, 03:04:33PM
7 'That's good. It's better keeping you out of it.' 03:04:37PM
8 That's a bit hard to understand, is it not, because here he is 03:04:40PM
9 even on your account he's hanging out to see whether you 03:04:44PM
10 can - at this time he's hanging out to see whether you can 03:04:46PM
11 get him a half a million dollar loan?--No, no, I told him 03:04:50PM
12 I couldn't do it. And just to go back to that, Mr Tovey, 03:04:54PM
13 whatever happened with that loan in the end I wasn't 03:04:57PM
14 involved. 03:05:00PM
15 He had come to you for a half million dollar loan only a couple 03:05:02PM
16 of weeks before this, probably only a few business days 03:05:07PM
17 before this. You had undertaken to help him, and then you 03:05:10PM
18 had undertaken to give him a deposit or a kick. Now, in 03:05:14PM
19 those circumstances when he said to you, 'I'm fighting in 03:05:19PM
20 the background,' what he was saying to you was, 'I cannot 03:05:24PM
21 be seen in the foreground in view of our relationship'; is 03:05:27PM
22 that not the situation?--No, it's not, because I go back 03:05:32PM
23 to you're joining two pieces together which is incorrect. 03:05:34PM
24 I don't know whether his deal happened and who with on the 03:05:40PM
25 financing, but it didn't happen with me. Him sitting in 03:05:45PM
26 the background, Mr Tovey, was his call. And I suggested 03:05:50PM
27 it was a great idea. In my mind it was keep him out of 03:05:53PM
28 it. Then if there is any conflict no-one can point the 03:05:56PM
29 finger. No different to going back to the sale of the 03:05:59PM

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City of Casey - sorry, to the freehold and the - the
freehold of Casey and also of Percy Trewin.
See, what you were concerned about was what people might think
about the way in which Aziz intervened on your behalf in
respect of the sale back in 2016, and that is why, I'd
suggest, at line 41 Mr Aziz says - sorry, line 38 he says
he'd like the meeting, that is with Fitchett, to happen
without him, 'But I want to ensure that I'm in the
background fighting', that is fighting for you, and you
say, 'Yeah, that's right.' 'For the right outcome.' So
he's your champion, he's your background champion. Then
you say, 'No that's a sensible move because then nobody
can question the other.' What did you mean by nobody
being able to question the other?---Of any conflict of
interest from his point of view.
And what conflict might that be? You didn't say 'question
conflict of interest'. You said 'the other'?---Sorry,
Mr Tovey, I should - what I've learned out of all this,
I'm a poor words man.
COMMISSIONER: I would have hoped, Mr Nehme, you've learned
something more than that about the way in which you should
deal with councillors, but we'll move on?---Thank you,
Commissioner.
MR TOVEY: When you said, 'No, that's a sensible move' - sorry,
'That's a sensible move because then nobody can question
the other,' what you were saying is, 'Look, Sam, it's a
good idea you keep a low profile on this otherwise people
will start questioning what we did at the time of the
sale.' That's what 'the other' meant?---No, that's

03:06:03PM
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03:06:36PM
03:06:42PM
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03:07:49PM
03:07:53PM
03:07:56PM
03:08:01PM

1 incorrect. Just go back to the - - - 03:08:03PM

2 COMMISSIONER: What was the conflict - - -?---What are you 03:08:05PM

3 insinuating at the sale? Let's go back to the process of 03:08:08PM

4 the sale. I think you're being - you're either 03:08:11PM

5 misinformed - did council run the process of the sale, 03:08:15PM

6 Mr Tovey? 03:08:23PM

7 MR TOVEY: I'm not here to answer your questions?---Why not? 03:08:24PM

8 Can't I ask a question? 03:08:28PM

9 No?---Council didn't run it. So where did Mr Aziz come in in 03:08:29PM

10 running the sale? Did councillors have any input during 03:08:34PM

11 the process of the expressions of interest? You seem to 03:08:37PM

12 be insinuating that Mr Aziz has been involved in that 03:08:44PM

13 process. But no councillors were. 03:08:47PM

14 COMMISSIONER: Mr Aziz was the mayor, Mr Nehme, when the July 03:08:50PM

15 motion was passed. He was the mayor and the chairperson 03:08:55PM

16 when the September motion was passed. What role he played 03:09:00PM

17 in relation to the internal processes of the council in 03:09:07PM

18 that period immediately before your company was selected 03:09:11PM

19 as the preferred purchaser is unknown. But what is known 03:09:16PM

20 is that you had secured his active participation in 03:09:21PM

21 seeking to have the freehold sold. That's what is 03:09:26PM

22 known?---Commissioner, just in answer to that - - - 03:09:30PM

23 MR TOVEY: What's also known is that days after this process 03:09:36PM

24 concluded you provided him with the first of a number of 03:09:40PM

25 payments adding up to a quarter of a million dollars. 03:09:45PM

26 They are the facts that are known?---As a loan. 03:09:50PM

27 COMMISSIONER: What I'm interested in knowing, Mr Nehme, is 03:09:53PM

28 you've now for the first time mentioned a situation which 03:09:56PM

29 you were aware of a potential conflict of interest. 03:10:01PM

1 You'll recall we've asked a number of questions about your 03:10:06PM
2 understanding of conflict, and you've not been able to 03:10:09PM
3 tell me in answer to any of my enquiries what the previous 03:10:12PM
4 conflicts might have been. What was the conflict here 03:10:15PM
5 that you recognised?---I'm just thinking, Commissioner. 03:10:19PM
6 The conflict? I'll just go back a step, and I'm just 03:10:34PM
7 talking aloud through this. I wanted Newmark to meet - to 03:10:39PM
8 arrange to meet with council to get an outcome to get a 03:10:44PM
9 sale. Sam - Mr Aziz spoke to Mr Fitchett. That's as far 03:10:47PM
10 as it should go. And in my mind that Mr Fitchett to meet 03:10:56PM
11 with Newmark, and then what occurred after that there was 03:11:01PM
12 no need for Mr Aziz to be involved. But, as I go back to 03:11:06PM
13 once again, the sale never occurred. It all fell over. 03:11:15PM
14 I'll just try once more. What was the conflict that you 03:11:20PM
15 recognised that would require or make it advisable for 03:11:26PM
16 Mr Aziz not to be seen to be involved in the 03:11:31PM
17 process?---I don't know the exact conflict, apart 03:11:35PM
18 from - there was no need - there was no need, 03:11:40PM
19 Commissioner, for him to be involved. 03:11:42PM
20 No, no, I'm only - - -?---It was a meeting between 03:11:44PM
21 Mr Fitchett - it was a planning issue between the council 03:11:48PM
22 and Newmark. So I'm not sure what value Sam could have 03:11:50PM
23 added. 03:11:55PM
24 It's not about value added, Mr Nehme. I'm taking up your 03:11:56PM
25 evidence that you volunteered. You're the one that for 03:12:02PM
26 the first time during the course of your evidence noted 03:12:08PM
27 that in this situation you could see that there was a 03:12:11PM
28 conflict which made it advisable for Mr Aziz to distance 03:12:15PM
29 himself. I'm simply asking you what was that conflict 03:12:19PM

1 that you recognised?---I recognised there was no need for 03:12:23PM
2 him to be involved as a ward member. 03:12:27PM
3 All right?---It wasn't a ward member issue. 03:12:29PM
4 Yes, Mr Tovey. 03:12:32PM
5 MR TOVEY: I have no further questions. 03:12:34PM
6 COMMISSIONER: Ms Borg, do you have questions of Mr Nehme? 03:12:37PM
7 MS BORG: No. No, Mr Commissioner. 03:12:41PM
8 COMMISSIONER: Is there any reason why Mr Nehme can't be 03:12:42PM
9 discharged from his summons? 03:12:45PM
10 MR TOVEY: No. No reason why he can't be discharged, 03:12:48PM
11 Mr Commissioner. 03:12:53PM
12 COMMISSIONER: Very good. I'll release you from your summons, 03:12:53PM
13 Mr Nehme. If you wish to peruse the transcript of your 03:12:56PM
14 evidence or to view the video of your evidence you need 03:13:01PM
15 only let the Commission know that you wish to do so and 03:13:05PM
16 arrangements can be made for that to occur. I note, just 03:13:09PM
17 so that there's clarity here, that in relation to the bank 03:13:14PM
18 records that were utilised during the course of 03:13:20PM
19 the evidence that I have suppressed the release of the 03:13:23PM
20 account number, your address or any details of 03:13:29PM
21 transactions that were not specifically the subject of 03:13:33PM
22 questions. Do you follow? 03:13:37PM
23 WITNESS: Thank you, Commissioner. 03:13:38PM
24 COMMISSIONER: Yes. Is there anything you want to say before 03:13:40PM
25 we adjourn? 03:13:45PM
26 WITNESS: No, Commissioner. 03:13:47PM
27 MS BORG: Thank you, Commissioner. Thank you, Mr Tovey. 03:13:50PM
28 WITNESS: Thanks, Commissioner. Thank you, Mr Tovey. 03:13:53PM
29 MS BORG: Can I leave the virtual hearing now, sir? 03:13:56PM

1 COMMISSIONER: You may, Ms Borg.

03:13:59PM

2 MS BORG: Sorry, I should just wait for you.

03:14:00PM

3 <(THE WITNESS WITHDREW)

03:14:08PM

4 ADJOURNED UNTIL MONDAY 14 DECEMBER 2020

03:14:11PM

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