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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 80

MONDAY, 5 AUGUST 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MR PHILIP URQUHART

COUNSEL APPEARING:

MS FIONA STANTON, with MS JENNY McKENZIE (Mr Yit Kee YONG)

MR ALAN SKINNER and MR PETER MARIOTTO (Mr Dimitrios LIMNIOS)

.05/08/2019

HEARING COMMENCED AT 10.00 AM.

5 COMMISSIONER: As the Inquirer into the City of Perth I wish to acknowledge the traditional custodians of the land on which we are conducting this hearing, the Whadjuk people of the Noongar Nation and their Elders past, present and future. The Inquiry acknowledges and respects their continuing culture and the contribution they make, and will continue to make, to the life of this City and this region.

10 On 21 November 2018, the Inquiry into the City of Perth commenced its hearings with a public hearing. At that time, I said that the Inquiry would independently discharge its statutory duties thoroughly, fairly and thoughtfully. The Inquiry has been rigorous and diligent in undertaking the very important work entrusted to it and will continue to discharge its obligations in that way.

15 Since its commencement, the Inquiry has been engaged in an extensive program of work. This work has been complex and demanding but I am pleased to say it has been worthwhile. As a result of its investigatory work, including many private hearings, the Inquiry is today in a position to embark on its program of public
20 hearings. In doing so it will, in an open and inclusive way, address its core Terms of Reference, namely, whether there has been a failure to provide good government in the City of Perth, the prospect of good government being provided in the future, and the steps which need to be taken to ensure good government in the future.

25 By addressing these very important questions in public, this Inquiry will, as it should, continue to meet one of the important underlying reasons for its establishment, namely, to restore the confidence which the public should have in the Capital City of this State.

30 Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

35 The Inquiry into the City of Perth was announced on 24 April last year by the Minister for Local Government under section 8.16 of the Local Government Act. This week, the Inquiry will embark on its first public examination of witnesses. There has, however, been a substantial amount of work undertaken by the Inquiry
40 in the past 16 months. There has already been 71 full days of private hearings involving the examination of nearly 100 witnesses. These witnesses have included current and former City Councillors and employees, service providers, business owners, ratepayers and other community representatives, and members of the community.

45 As a result of those private hearings, together with the analysis of several million documents and over 100 electronic devices, the Inquiry is now in a position to move on to its next stage with the holding of public hearings. Those public

hearings will be conducted in three blocks over the next eight weeks. The first block will run for this week and next week; the second block is scheduled to commence on Monday, 26 August for two weeks; and the final block is expected to commence on Monday, 16 September and conclude by the end of the following week.

All those public hearings are scheduled to be conducted in this hearing room, which is numbered 2, on level 18 at 111 St Georges Terrace, here in Perth. The public hearings will not be live-streamed on the Inquiry's website. However, any introductory remarks by the Commissioner, and the opening address by Counsel Assisting at the commencement of each public hearing block will be placed on the website as soon as it is practicable to do so. The Inquiry's website will also list the names of those witnesses scheduled to be called one working day in advance. In addition, the transcript of each day of the public hearings will be downloaded onto the Inquiry's website, again, as soon as is practicable.

For the next two weeks the Inquiry will be concentrating on the following five areas: the first will be whether the criteria for voter eligibility is open to manipulation and whether that has actually occurred with the City of Perth electoral rolls. Unlike State and Federal elections, voting in Local Government elections is not compulsory, hence, the election turnout is invariably very low. For example, the 2013 City of Perth elections had less than 27 per cent of those eligible to vote actually complete and submit their ballot papers. With a population of less than 30,000, every single vote in a City of Perth election can therefore be crucial.

Ordinary elections for Councillors take place every two years, in October. At each of these biennial elections half the City of Perth Councillors, that is a total number of four, are elected for terms of four years. Ordinary elections or the Lord Mayor also take place in October, but every four year rather than two. Once elected each Councillor, pursuant to the Local Government Act and its Regulations, must formally declare that he or she will duly, faithfully, honestly and with integrity, fulfil the duties of the office for the people. Although it ought to be trite to say that such a declaration should never be made lightly, it would appear that the subsequent conduct of some Councillors meant they did precisely that or had forgotten what it was they had declared to do.

Those who are eligible to vote comprise of residents in the City of Perth and people who, or companies which own or occupy, usually through a lease, property within the City's boundaries. The elections are conducted by postal vote and election packages are posted out about three weeks before election day, to all those on the electoral rolls. Unlike State or Federal elections, it is not as simple as one person, one vote. For example, where a company owns or leases property, two people may be nominated to vote on behalf of that company.

Under the current provisions of the Local Government Act, those two nominees do not have to be affiliated with, or connected to the company in any shape or form.

Provided they are on the State electoral roll, they can be nominated by an authorised person of the company. For example, a nominee could be living 900 kilometres away in Useless Loop and have never set foot in the City of Perth, and still be entitled to vote on behalf of a company that they have nothing to do with.

5

Hence, there is scope for the manipulation and misuse of these provisions and questions will be asked of some witnesses as to whether they had taken advantage of those provisions to gain for themselves an unfair advantage.

10 The second matter that will be looked at during this first block of public hearings is Elected Members' entitlements. There is no denying that Local Government Councillors commit themselves to performing many hours of unpaid work.

15 Although they receive attendance fees for committee and Council meetings, it is only the Lord Mayor who receives an annual allowance or salary, but a City of Perth Councillor, including the Lord Mayor, is entitled to reimbursements. An allowance of up to \$13,360 per year may be used by Councillors for a variety of expenses, including attendances at conferences or forums connected with their role as a Councillor, which can also include travel expenses.

20 This allowance also covers reimbursement for clothing, apparel, dry cleaning, personal presentation and incidental costs, provided they are associated with the Councillor's attendance at Council-related functions and activities. In addition to that amount of \$13,360, there was also an annual allowance for City of Perth Councillors of up to \$12,000 per year that permitted them, and their guests to use
25 the Council dining room free of charge. Investigations undertaken by the Inquiry have shown that huge discrepancy between Councillors regarding the use of these allowances, and the amounts that have been claimed.

30 Some Councillors have claimed a mere fraction of their reimbursements. In contrast, other Councillors have taken a very broad interpretation of what they regard as their entitlement to be reimbursed for clothing, apparel and dry cleaning to cover their attendances at Council-related functions. If this is not an abuse of what they are entitled to claim, then at the very least, it would fail the pub test by a considerable margin.

35

Upon the evidence it has heard to date, it is open for the Inquiry to make a similar conclusion regarding the use of the Council dining room by some Elected Members, and I must stress, it is only some, not all Councillors that this finding may be made. Notwithstanding the relevant Council Policy that mandates a
40 limited use of the dining room for Elected Members to entertain guests at the City's expense, some Councillors have flagrantly ignored the limitations that their own policy sets down.

45 Furthermore, precious little was done by the City staff to stop this abuse. It would seem that as the Council Policy was honoured more in its breach than its adherence over a considerable period of time, those City staff responsible for overseeing the correct use of the dining room preferred to maintain the status quo

rather than rocking the boat of some well-fed Councillors.

[10.15 am]

5 This, of course, suited those Councillors who believed they could use the dining
room to entertain up to 10 of their friends and relatives at the one sitting, without
ever paying a single dollar. The Council dining room has subsequently been
closed by the Commission appointed to replace the suspended Council. That,
10 however, does not prevent the Inquiry from conducting its own investigations as to
whether there was a misuse by some Councillors of their entitlements to use the
dining room, a misuse carry-out to promote their own self-interest or agendas,
rather than the promotion of the interests of the City. It was these Councillors who
got far more than gravy when they boarded the dining room train.

15 The third matter to be looked at is regarding the completion of primary and annual
returns by Councillors. The Local Government Act requires newly elected
Councillors to complete what is called a primary return and thereafter, an annual
return for every year they are on Council. What must be included in those returns
are all real property interests the Councillor has, not only within the boundaries of
20 the Council's district, but also any real property interests he or she has in adjoining
districts.

What must also be declared in a primary return are all income sources that the
Councillor reasonably expects to receive for the current financial year and for
25 every annual return thereafter, each source of income received during the return
period. It is the rightful expectation of the community that the Elected Members
of their Local Government carefully and accurately complete these returns.
Whether that has been done in all instances by the City of Perth Councillors will
be another area to be examined by the Inquiry.

30 The fourth area the Inquiry will be looking at over the next fortnight is the
Council's decision-making process regarding a particular application for planning
approval. Once elected, a Council conducts the business of Council by meetings.
The Council of the City of Perth would usually meet every four weeks at an
35 Ordinary Council Meeting to make decisions on the governing of the City.
Frequently, when a matter is to be voted on, it has already been before the relevant
committee which usually comprises of three Councillors. That committee can
make a proposal to the Council as to whether it should approve or reject the matter
that is ultimately to go before it.

40 In a substantial majority of cases, the recommendation made by the
Administration's officers will be accepted by the Council. That is hardly
surprising. The officers preparing the recommendations have the necessary
training and knowledge to make informed decisions. Usually, the Lord Mayor
45 presides at the Ordinary Council Meetings, which are attended by the other eight
Councillors, the Chief Executive Officer of the City, Directors of the City, some
Administration staff, as well as interested members of the media and community.

5 The papers for a meeting are prepared by the City's Administration and provided to
the Council approximately four days prior to the meeting. Those papers will
include the reports which contain the recommendations for the Council to consider
and vote on. Matters relating to planning approvals are commonly before the
Council for it to vote on. Typically, an application for development approval,
which has complied with all the legislative planning requirements, will be
approved by the Council because to reject such an application could inevitably
lead to the seek being of a review of the Council's decision before the State
10 Administrative Tribunal by the unsuccessful applicant, with all the attendant costs
for both parties that are associated with such a legal process.

As stated by Counsel Assisting the Inquiry, Ms Lendich, at the Inquiry's opening
address on 21 November of last year:

15 *Good government requires openness and accountability. A failure to
be open and accountable is not government good. A concept related to
good government is good governance. Generally, governance is about
the decision-making process and ensuring that there are necessary and
20 appropriate checks and balances in place. It is about legitimate,
accountable and effective ways of obtaining and using public power
and resources. Anything less, including the misuse of position and
power, is not good governance.*

25 Whether it be at the Federal, State or Local level, it is expected that such
decision-making must always be transparent and free from improper influence, be
it influence that is motivated by self-interest, or improper external pressure, or a
combination of both of those factors. For a Local Government such as the City of
Perth, there is a legislative framework that requires the Council to have access to
30 advice and information so that decisions can be made in an informed manner.

The Local Government Act and the Local Government Rules of Conduct
Regulations also make it clear that decisions should be made on the merits of the
issue. With that in mind, the Inquiry has examined a 2015 decision by the City of
35 Perth Council to refuse the planning approval for a convenience store proposed for
the ground floor of the Adagio Apartments, at the time, a recently built luxury
apartment complex on Terrace Road, with sweeping views of the Swan River. The
convenience store was to be in that part of the complex that had already been
zoned for a commercial tenancy.

40 There is evidence before the Inquiry which suggests that the decision-making
process for this matter was undermined by a serious and deliberate failure by the
Council to consider the planning approval on its merits, with the result that the
owner of the premises and the store proprietors significantly suffered, not just
45 financially but emotionally as well. It is open for the Inquiry to find that scant
regard was paid by the Council to a carefully prepared report by officers from the
City's Planning and Development Directorate which had addressed the objections

that had been raised by nearby residents.

5 That was done by imposing a number of conditions upon the application. In the
opinion of the officers, the implementation of those conditions would make it
unlikely that there would be a significant impact on the amenities for the residents.
The report before the Council had also stressed that the establishment of the shop
was consistent with the intent of the relevant City of Perth Town Planning Scheme
and the Design Policy for Terrace Road. Nevertheless, by a unanimous vote, the
Council rejected the application.

10 The final area to be examined over the course of the next two weeks concerns
procurement and contracting. There's been an every increasing shift towards the
outsourcing of services provided by Local Governments. The City of Perth is no
exception. It engages in a range of procurement activities across a number of
15 services totalling around \$50 million per annum. The process of obtaining tenders
from competitors for a particular contract should always be the best and fairest
way of selecting a supplier to undertake the work in question.

20 However, there is always scope for favouritism which can arise due to associations
and relationships between those providing the tenders and those ultimately making
the selection. This risk can be heightened when there is a lack of preventative
controls within the Local Government to ensure such conduct does not occur.

25 During this course of this first block of public hearings, the Inquiry will examine
the tendering process by the City of Perth for the maintenance of its irrigation
bores, pumps and associated works. Though this matter has already been the
subject of private hearings, during the course of this public hearing, the Inquiry
will hear from a City of Perth staff member involved in the process, and a Manager
for Governance at the City of Perth.

30 The question to be resolved is whether there were failings in the process that led to
one supplier being favoured over others that had also tendered for the contract, and
whether those failings were adequately addressed by the City to ensure the same
thing did not happen again. Unfortunately though, there is evidence to suggest this
35 is precisely what happened with the next tender for the same works.

40 I just want to make now some concluding remarks. During the next fortnight the
Inquiry will be calling two Councillors who are presently suspended, and two who
were defeated at the 2017 elections. These Councillors will be asked about their
conduct with respect to one or more of the subject matters that I have already
outlined. Other Elected Members who were suspended in March of last year, are
scheduled to appear in the second and third blocks of the public hearings. The
remaining witnesses for this block of public hearings will be those who are City of
Perth staff members.

45 I wish to conclude this opening address with a warning, a warning directed to
those witnesses who are to be called over the course of the six weeks of these

public hearings and who might be inclined not to adhere to the oath or affirmation that they take prior to the commencement of their evidence. Witnesses called at these public hearings should not need to be reminded that when they take an oath or affirmation, they are required to tell the whole truth to all questions asked of
5 them.

That obligation remains whether or not a truthful answer reflects poorly on them, and whether or not the truthful answer reflects poorly on a person they are or once were aligned with. Untruthful answers that are given to protect inappropriate
10 conduct by the witness, or the inappropriate conduct of others arising out of some notion of misguided loyalty, are of course contemptuous of the oath or affirmation taken to give honest answers to the questions asked.

The answers, "I don't recall" or, "I don't know" in response to an uncomfortable
15 question are also untruthful answers if it is a case of, "I don't want to recall" or, "I don't want to honestly answer that question." The reason for this warning is that after more than 70 days of evidence at private hearings, the Inquiry has had the unfortunate experience of hearing answers from a number of witnesses that lacked veracity, defied logic and on occasions, were an affront to common sense.
20 Regrettably, these answers were not isolated events.

I should add that witnesses to be called over the course of this month and next month would be unwise to assume that the Inquiry is not aware of the truthful answers to the questions that are asked of them. The time has well and truly
25 passed when the Inquiry was asking questions simply to obtain information that it did not have.

Witnesses will also be unwise to assume that an evasive answer, which is non-responsive to the question asked, will simply be accepted by the Inquiry. It
30 will not. The question will not disappear into the ether. It will be repeated and repeated again, if required, until it is answered.

Commissioner, a short adjournment may be required before the Inquiry continues whilst some equipment is removed.
35

COMMISSIONER: Mr Urquhart, thank you for those very helpful submissions. I will now adjourn the Inquiry for a short time before hearing applications and the evidence of the first witness.

40 (Short adjournment).

HEARING RECOMMENCED AT 10.42 AM.

COMMISSIONER: Yes, Ms Stanton.

45 MS STANTON: May it please you, Commissioner, I seek leave to represent the witness, Mr Yong, together with my instructor, Ms McKenzie.

COMMISSIONER: Thank you. I have read the application form of 1 August and the supporting affidavit. If you take a seat for a moment, I will just see if Mr Urquhart has any objection. Mr Urquhart.

5

MR URQUHART: No, I do not, thank you, sir.

COMMISSIONER: Thank you. In that case, leave is granted to represent Mr Yong at this public hearing.

10

MS STANTON: May it please you, Commissioner.

MR SKINNER: May it please you, Commissioner, my name is Skinner and I seek leave to appear on behalf of Councillor Limnios in relation to this matter. There's an application that has been filed.

15

COMMISSIONER: Yes.

MR SKINNER: I have just noticed there needs to be a small amendment to that application. The word "private" needs to be amended to read "public". That was an error, but we do seek leave. We have been advised by the solicitor assisting that given the evidence of ex-Councillor Yong, that Councillor Limnios is an interested party, given the evidence that will be led. So we seek leave to appear pursuant to Practice Direction 6.

20

COMMISSIONER: Yes. I see that you seek leave to appear before the Inquiry on the 5th, 6th and 7th, is that the case?

MR SKINNER: That is correct. That is the advice, or that's what we have been notified by the solicitor assisting that on the 5th, the 6th and the 7th, that Councillor Limnios is an interested party in terms of the evidence that will be led.

25

COMMISSIONER: Thank you, Mr Skinner. Just take a seat for a moment. Mr Urquhart, is there any objection?

30

MR URQUHART: No, there's not, sir. In my submission, it would be appropriate to deal now with the two matters that have been raised in the affidavit. Of course, as long as Mr Limnios' legal representatives are aware that any question they may seek leave to ask of Mr Yong will be confined to that discrete part of the evidence that arose during Mr Limnios' evidence at his private hearing.

35

With respect to the second matter, the 2015 application for the convenience store at the Adagio Apartment complex, again, no objection is maintained with respect to the application but again, questions will have to be confined to evidence that relates to Mr Limnios.

40

COMMISSIONER: Yes, of course. Mr Skinner, do you understand those

limitations?

MR SKINNER: I certainly do, sir, thank you.

5 [10.45 am]

COMMISSIONER: Thank you. In that case, leave is granted.

Mr Urquhart, do you call your first witness?

10

MR URQUHART: I do, thank you, sir. That will be Keith Yong and Mr Yong is already in the back of the hearing room.

15 COMMISSIONER: Thank you. Mr Yong, please come forward and take a seat in the witness box to my left. Mr Yong, do you wish to take an oath or make an affirmation?

MR YONG: I will take an oath.

20 COMMISSIONER: Thank you. Madam Associate.

MR Yit Kee YONG, sworn:

COMMISSIONER: Mr Urquhart.

25

MR URQUHART: Thank you very much, sir.

Mr Yong, if I could ask you to keep your voice up, please. Those microphones in front of you won't necessarily amplify your voice to a great degree. Okay?---Okay.

30

Is your name on your birth certificate Yit Kee Yong?---That's correct.

But you go by the name of Keith?---Yes.

35 Were you born on 16 May of 1978?---Yes.

That makes you 41 years of age?---Yes.

You were born in Malaysia?---Yes.

40

What is your current occupation?---As lawyer.

Were you elected as a Councillor to the City of Perth in October of 2013?---Yes.

45 Were you then unsuccessful when you contested the 2017 election?---Yes.

Are they the only two elections for the City of Perth that you have contested

in?---Yes.

Mr Yong, do you have an identical twin brother?---Yes.

5 Does he go by the anglicised name, Jonas?---Yes.

Do you also have an older sister?---Yes.

And does she go by the anglicised name of Angie?---Yes.

10

Yong?---Yes.

Her surname is still Yong?---Yes.

15 Do you, Jonas and Angie all hold law degrees?---Yes.

Is that from the University of London?---Yes.

Did you all do that by correspondence from Malaysia about 20 years ago?---Yes.

20

Am I right in saying that you, your brother and sister and your parents all migrated to Western Australia about 17 years ago?---Yes.

Your parents' names, does your mum go by the anglicised name, Lilly?---Yes.

25

Is that spelt L-i-l-l-y?---Yes.

Your father, is his name Tet, T-e-t, Khiong, K-h-i-o-n-g, Yong?---Yes.

30 Once you and your brother arrived and settled here in Western Australia, did you obtain qualifications to practise law in this State?---Yes.

And in your case, was that in 2005?---Yes, correct.

35 Did you both establish your own law firm in 2009?---Yes.

Is that firm called Lex Legal Pty Ltd?---Yes.

Lex spelt L-e-x?---L-e-x.

40

Is your brother the sole director of that company that operates the law firm?---Yes.

Mr Yong, did that firm operate from level 4, 326 Hay Street here in Perth from April 2009 to about March of 2012?---Yes.

45

Then did it move to level 3, 231 Adelaide Terrace in Perth in March 2012?---Yes.

Is that still where the firm is?---Yes.

Are the firm's offices located in a particular suite on level 3?---Yes.

5 What number is that suite, do you know?---I can't remember what suite, it is 9 or 10.

Suite 9, yes. Does the firm lease those premises?---Yes.

10 Who from?---Lex Legal Management Pty Ltd.

Is the sole director of that company your mother, Lilly Yong?---Yes.

15 Does the law firm or the company that owns the law firm, pay rent to Lex Legal Management Pty Ltd?---Yes.

Is that a monthly rent - is it paid every month?---Yes.

20 Am I right in saying though that Lex Legal Management Pty Ltd and Lex Legal Pty Ltd are not the only companies that members of your immediate family are or have been directors of, there are other companies?---There are other companies, yes.

Is one called Bell Vista Pty Ltd?---Yes.

25 Is that a company that your parents are directors of?---Yes.

Is another Burswood Development Pty Ltd, again, a company that your parents are both directors of? Does that sound familiar of?---Yes, but I can't confirm whether they are sole director or director, but yes.

30

Sorry, what's that?---I can't confirm whether there is sole director or both parents.

With respect to Burswood Development?---Yes.

35 But at least one of them is?---Correct.

Are those companies formed to enable, or are part of property developments that your parents are involved in?---Yes.

40 Is that right?---Yes.

I want to ask you about some other companies as well, one called Bon Geste, G-e-s-t-e, Pty Ltd?---Yes.

45 Is that a company that you and your brother and sister are directors of?---Yes.

What does that company do?---The company own another lot next to lot 9 - I

assume it's lot 10.

It owns lot 10, does it?---Yes.

5 How long has it owned lot 10 for or suite 10?---I can't remember the actual date but a few years after Lex Legal Management bought suite 9.

Bon Geste Pty Ltd was registered in September 2014, does that help you - -
-?---Yes.

10

- - - to work out when it would have been, it would have been some time of that date?---It would have been some time after that date.

Is suite 10 occupied at the moment?---Yes.

15

Who occupies that?---Bell Vista, a few companies, Time Out Trading.

What's that one?---Burswood Development.

20

What was the second one you said?---Time Out Trading Pty Ltd.

Time Out?---Time Out, T-i-m-e, O-u-t Trading Pty Ltd.

And time out Pty Ltd, is that another family company?--- Yes.

25

Do you know who the directors of that company are?---Either one of my parents.

Again, is that a company formed to do with their property developments?---It was meant for running for a cafe.

30

The running of a cafe?---Cafe.

Any other companies that occupy suite 10?---Is Radiant Land is registered in that office, Radiant Land.

35

Radiant Land?---Pty Ltd.

Again, is that another of your parents' property development companies?---It was meant for another project for development.

40

So that's four, are there any others that use that suite?---That's all I can recall.

When you say they use, what do they actually use it for?---You mean actual premises, the space?

45

Yes. What's the space used for?---For them to have meeting in the meeting rooms, business meeting, accountant, connected to the account of BAS or PAYG.

Is it occupied every day during the week?---It's occupied - - -

5 Is someone in there every day of the week?---My parents.

Is that leased? Are those premises leased by Geste?---Leased to Bell Vista.

How long has that been in place for?---When Geste first bought the property, the
10 seller was occupying that premises for a certain number months and when they
move out, Bell Vista move into that premises.

So some time after September 2014?---Yes.

15 Is another family company of your family Beau Geste B-e-a-u, with the same
spelling of Geste as Geste, is that another company?---My understanding, that
company has been deregistered.

Yes. So it was registered and then deregistered?---Yes.

20 Registered in July 2009, does that sound about right?---Sounds about right.

Deregistered in January of 2012?---Sounds about right.

Can you recall who the directors were of that company?---My sister.

25 Was your sister just the secretary and was your brother-in-law and your mum the
directors?---I can't confirm that.

Your brother-in-law, is his name Kim-Loong Chan?---Yes.

30 He's married to your sister?---Yes.

But does he go by the anglicised name of Danny?---Yes.

35 Is there another family company of yours called Maxi West Pty Ltd - when I say
yours, your family?---That's my company.

That's your company?---I'm the sole director.

40 Was that registered in February 2007?---Sounds about right.

Are you also the secretary?---Sole director and sole secretary.

What does that company do?---It's meant for property investment trust.

45 Property investment trust?---Yes.

Finally, does the family also have the Yong Family Super Pty Ltd company?---Yes.

Was that registered in 2007, that sounds about right?---Sounds about right.

5

Are you a director of that?---One of the directors.

One of a number of your family?---Yes.

10 Does that company manage the family superannuation?---Yes

[11.00 am]

15 Mr Yong, I want to ask you now something about what you regard as your entitlements as a Councillor, bearing in mind you were a Councillor from October 2013 to October 2017. During that time, did you use the Council's dining room facilities?---Yes, I do.

Did you invite guests to dine there?---Yes.

20

What did you understand were your entitlements to use the Council dining room, and I'm just concentrating on a Friday and Saturday? What did you understand your entitlements were?---To use the dining room, inviting guests for budget up to \$12,000.

25

Inviting guests up to a budget of \$12,000, did you say?---Yes.

So there was a limit of \$12,000 and was that annual limit?---Yes.

30 On those occasions when you did invite guests there, did you ever personally pay for the meals?---No.

And drinks for any of your guests, no?---I didn't pay for it.

35 They were all paid for by the City of Perth?---Yes.

Were there any restrictions placed on who your guests should be?---I was not aware of any restriction placed by the City.

40 You were not aware of any restrictions?---Of inviting guests, no.

You could invite whoever you wanted?---Yes, was my understanding.

Where did you get that understanding from?---From the City.

45

Who from the City or what from the City?---I recall that before - during my term as Councillor I checked with the Council, what are the limit and budget to use the

dining room and I was told, "Dining room can be used up to \$12,000 per annum and Councillor's limitation for reimbursement of \$13,360 per annum."

5 Okay. I'm just staying with the \$12,000 for the moment. So you're saying you checked with the Council to see what limit and - what, just limit there was on the budget?---I said, "What are the limits of each Elected Members for dining room and reimbursement."

10 Who did you ask?---I recall his name is called Dale.

Sorry, who?---Dale.

Dale?---D-a-l-e.

15 Surname?---It should be Quinlivan.

Quinlivan?---I may be mistaken.

20 Quinlivan. What was his title at the City?---I don't know exactly what was the title but in charge of finance or on the finance side.

25 In charge of finance. So therefore, am I right in saying you just simply asked him what the limit - whether there was a limit on the cost or how much expense you could incur using the dining room?---Yes.

Did you ask him though, were there any limits on the guests, the type of guests you could invite?---No.

30 So your understanding was, or you just simply believed that you could invite friends?---Yes, anyone that - guests or anyone of your choice.

Anyone of your choice, so friends of yours, yes?---Yes.

35 Relatives of yours?---Yes.

It wasn't confined to guests who you could invite when you were carrying out your civic responsibilities?---Yes, I take a broader term of the meaning of guest.

40 You took a broader term?---Yes, because it took guest, so I took as, guest can be anyone that you can invite.

Anyone you can invite?---Yes.

45 So you could entertain your own guests for personal reasons?---My understanding, yes.

And their meals would be paid for by the Council?---Yes.

Not just meals, but also alcohol?---For their drink, yes.

5 So, for example, your understanding was that you could, say, celebrate a family member's birthday?---No.

No?---Never.

10 But you could if you wanted to?---Yes.

But you didn't?---No.

Were you aware of any Councillor who did actually do that?---I don't know.

15 You don't know?---I don't know any Councillor who had done that.

I would like you to think hard if you can. During the course of your term as a Councillor, did you either see or hear of another Councillor using the dining room for a birthday celebration?---For a table of 10, no.

20 What about for a smaller table then?---No, I don't have anyone who organise a table for celebrating a birthday.

25 Why did you answer that by saying "for a table of 10"?---Because the practice is, you need to have a table of 10 in order to open the dining room.

Unless there were, say, two tables of six?---Two tables of six, yes.

30 The dining room would be open because the limitation was on a minimum number of 10 people using the dining room, wasn't it?---Yes.

Not 10 to a table?---Yes.

35 So are you sure then you weren't aware of a celebration by a Councillor of a family birthday at which there were less than 10 guests?---No.

No?---No.

40 Your understanding was you could invite anyone you liked to the Council dining room?---Yes.

45 Do you think the City's ratepayers would regard that as a good use of their money?---My understanding, drawing an analogy with the City dining room, is with the other Council and State Parliament dining room. So my understanding is in sequence with the rest.

Mr Yong, now is the first time in the public hearings where I'm going to repeat a

question. Would you like me to repeat the question to you again so that you could answer it directly?---Yes, sir, please.

5 Do you think the City's ratepayers would regard personal use of the dining room by a Councillor as a good use of their money?---No.

10 How often did you use the Council dining room to entertain your guests for non-Council or personal reasons?---Can't recall actual date but once every two months.

Once every two months, so on average, what, you would only have no more than 60 guests a year that you invited for purely personal reasons?---Not more than 60.

15 More than 60?---Not more than 60.

Would you use the Council dining room to entertain guests who were not your family or relatives?---Yes.

20 Who would they be?---I invited Consul-Generals and Deputy Consul-Generals of each - of separate, different countries.

All right?---Business Councils, associations of various representative country, the East Perth Community Safety Group.

25 Yes?---Perth Heritage Group.

Would you say that in those circumstances, you were entertaining guests as part of your civic responsibilities?---Could you please repeat the question?

30 Yes. On those occasions do you say you were entertaining those guests as part of your civic responsibilities as a Councillor?---Yes.

All up, how many guests would you estimate you had in the dining room for any one financial year?---Close to \$10,000.

35 As in \$10,000?---Close to 8, 9, \$10,000.

Were you able to keep an eye on your monthly expenditure in the dining room?---Yes.

40 So as to make sure it didn't go over the \$12,000 mark?---Yes.

What happened if it did go over \$12,000?---In the calendar year, you are not entitled to have dining in the dining room.

45 What about if you paid your own way, would you be able to use it then?---I never asked that question.

So you made sure you were always under that \$12,000 limit, did you?---Yes.

5 Mr Yong, as I understand from your evidence, there would have been occasions when you just used the dining room with just friends or relatives of yours as guests, would that be right?---Can you rephrase the question, sorry?

10 Yes. When you used the dining room, were there times when the only guests you had were either friends of yours or relatives of yours?---Yes, there are times, yes.

Madam Associate, if we could please place on the screen 18.1729. Sir, is this is TRIM number 19237.

15 COMMISSIONER: Thank you.

MR URQUHART: What's going to come up on the screen shortly, Mr Yong, is a breakdown of the use of your dining room for the financial year 2015/2016. Can you see that?---Yes.

20 Is this something that you would get frequently from the City?---Yes.

We can see there at the bottom of the page, that that memo is from Dale Quinlivan, Manager, Executive Support ?---Yes.

25 So that was the man you initially asked questions of regarding the budget, how much money you could use as an allowance on a yearly basis?---Yes.

30 We see there at the bottom, if we just concentrate on, "Cumulative total 2015/2016: 150 guests" and with food and beverages, it amounts to \$10,201.16. I gather you accept those figures?---Yes

[11.15 am]

35 Could we now look at, please, Madam Associate, 18.1743. TRIM number, sir, 19243.

COMMISSIONER: Thank you.

40 MR URQUHART: This is a similar memorandum for the financial year 2016/2017, do you see that?---Yes.

There, if you look at the cumulative total, 156 guests for a grand total of \$11,669.56, do you see that?---Yes.

45 If we just go above that there, we can see that for the last two months of that financial year, May and June, you invited no guests to the dining room, do you see that?---Yes.

Is that because you were very close to your limit?---Yes.

5 Thank you, Madam Associate. So, Mr Yong, by my calculations, over those two financial years, 15/16 and 16/17, you on average were using the dining room and incurring costs of, on average, above \$900 a month?---Yes.

10 So do you agree you used the dining room extensively over that period?---Considerably quite - - -

You've got to keep your voice up, Mr Yong. I can hardly hear you and there's other members in the public gallery who would like to hear you?---Considerably quite often.

15 Possibly quite often?---Yes.

For that last financial year that we looked at, there was 156 guests, so six more than the previous financial year. So over 300 guests in two financial years, yes? You don't take issue with that?---That's correct.

20 What return from that expenditure by you did the City receive?

MS STANTON: Mr Commissioner, I might suggest the difficulty - - -

25 COMMISSIONER: Is this an objection?

MS STANTON: It is?

30 COMMISSIONER: Should it be heard in the absence of the witness or not?

MS STANTON: I don't believe so, Commissioner.

COMMISSIONER: All right. What's the objection?

35 MS STANTON: The question perhaps might be directed to, that there were two types of guests identified in the evidence so far. There were those that my friend referred to as guests that fell within the exercise of civic responsibilities - - -

40 COMMISSIONER: I can recall the evidence, yes.

MS STANTON: They are bound together in this question. Perhaps if that could be made clearer, that it relates either to one group or the other, or to both groups together, if that's the intention. I suspect my friend is seeking to ask about the former group rather than the latter.

45 COMMISSIONER: It may or may not be the intention, Ms Stanton. I will hear from Mr Urquhart. Mr Urquhart.

MR URQUHART: The question I'm sure can be answered by Mr Yong appropriately. If he needs to make a distinction between the two sets of guests, I'm sure he will.

5

COMMISSIONER: Thank you. Repeat the question.

MR URQUHART: So what return from that expenditure by you did the City receive, Mr Yong?---What return as in what the City gets?

10

Yes?---Because I engage with Business Councils, like the French Business Chamber of Commerce, the Hong Kong-Australia Business Council, the Vietnam Business Council, invited United States Consul-General, invited the Vietnam Consul-General. It's part of the City's interaction and connection with our stakeholders, which I think is important.

15

So that takes care of that category of guests. What about the guests that came and dined out at the City's expense who were just your friends and relatives, what return from that expenditure did the City receive?---None.

20

None, is that your answer?---No, just purely entertain friends and relatives.

Your own personal entertainment?---Yes.

25

COMMISSIONER: Mr Yong, I am having trouble hearing your answers. You will have to speak up, I'm afraid?---I will speak up, Commissioner.

Thank you.

30

MR URQUHART: Correct me if I'm wrong but as I understand it, the dining room could be used by Councillors, for which the City paid for it, Fridays at lunchtime, yes?---Yes.

35

And then was there a Friday evening once a month that it could be used as well?---Yes.

And then also Saturday once a month in the evening, the dining room could be used as well?---Yes.

40

Is that your understanding of it?---Yes.

So that works out at about five or six times a month, depending how many Fridays and Saturdays there are in any one month, okay?---Okay.

45

So was it your view that because you were allowed to use the dining room on those number of occasions and invite whoever you liked, then you were entitled to take advantage of that?---Yes.

Mr Yong, when you were elected a Councillor, did you get a file of material to read that would assist you in your role as a Councillor?---Yes.

5 Did you read that material?---Yes.

Do you remember reading a number of Council Policies?---Yes.

10 What did you understand those Council Policies to be there for?---As a guideline, as a guide for Councillors, newly elected Councillors.

A guideline for Councillors to follow?---Yes.

15 Do you remember reading in those policies the limitations that Councillors had on the use of the dining room?---Yes.

Do you remember reading those?---Yes.

20 Did you adhere to those limitations in your use of the dining room thereafter? Did you follow those policy guidelines?---I can't recall the actual words, but not.

When you read them, did you make sure that when you used the dining room you abided by those policies?---Yes.

25 You did?---No, I did not.

You did not. Did you simply then ignore them?---No, I did not have a careful look of that guidelines policy.

30 But you wanted to find out from Mr Quinlivan what was the limit on the budget, yes?---Yes.

Wasn't it also important to find out and make sure you follow the restrictions on who you could invite to the dining room?---Yes.

35 But you didn't do that, did you?---I didn't do that.

40 So if you read - let's go and have a look at the Council Policies and remind you of what they said. Madam Associate, if we could have a look, please, at 18.0083. TRIM number, sir, 19262.

COMMISSIONER: Thank you.

45 MR URQUHART: There are two policies I want to take you to, Mr Yong. This is the first one, it's Policy 10.8 and it's under the heading, "Office accommodation, Elected Members." I want to take you, please, to the second paragraph that appears under the heading, "Policy statement" and it reads in the first sentence:

The reception suite, Council chambers and committee rooms and dining room are not to be used for other than official functions.

5 Do you see that?---Yes.

No doubt you would have read that policy shortly after you were elected?---Yes.

And you had a hard copy of these policies, did you not?---Yes.

10

In your office?---Yes.

If you weren't sure about something, you could always check, couldn't you?---Correct.

15

Madam Associate, if we could now go to 18.0085. TRIM number, sir, 19263.

COMMISSIONER: Thank you.

20 MR URQUHART: Mr Yong, this is Council Policy 10.12 in relation to provision of hospitality. "Policy objective":

This policy determines the nature and extent of catering services for civic functions and official meetings.

25

Do you see that sentence?---Yes.

"Policy statement":

30

The Council acknowledges that as Western Australian Capital City Local Government it has unique civic responsibilities to receive and host visiting dignitaries, significant business partners and corporations, community organisations, and residents and ratepayers of the City.

35

That's the first paragraph. The second paragraph reads as follows:

The Council shall maintain a limited hospitality facility available to Elected Members to assist them to meet their unique civic responsibilities on the following basis.

40

Then it deals with the dining room and it sets out some rules or guidelines regarding the use of the dining room. Do you see that there?---Yes.

45 And obviously you had read those, had you not?---Yes.

Because, for example, you were aware of 1.2, that there was a maximum of 10

guests "including members' spouses are permitted the dining room", do you see that?---Yes.

1.3:

5

A guest book identifying the main guest of honour at each function is to be maintained.

10 Mr Yong, did you ever sign a guest book or write in that guest book who your guest of honour was when you invited guests to the dining room?---No.

No, never did that?---No.

15 Then there are some following rules regarding the non-use of mobile phones and matters of that nature. Just for completion we will go over the page to the last rule regarding the dining room, so that's 0086, thank you, Madam Associate. 1.9:

20 *Elected Members may use restaurants within the City of Perth area for hospitality purposes on Fridays or for Saturday dinners if there are insufficient numbers to meet the minimum catering requirement for the City of Perth dining room, being 10 people, or where the dining room is fully booked.*

25 Were you aware of that provision?---Yes.

25

Did you ever use that?---Yes.

You did? So on occasions when the dining room was not open, or had already been fully booked, you used that rule, did you?---Yes.

30

Can you recall how many times you did that?---Once.

Can you remember who your guests were on that occasion?---Yes.

35 Who were they?---Councillor Adamos.

Councillor Adamos, yes?---And Patrick Chow is my guest.

Who is he?---He operate a business in the City.

40

So it's just the three of you?---Three.

Where did you go?---Duxton Hotel.

45 Did someone claim the reimbursement of the bill there, did they?---I did.

So you paid the bill and then sought reimbursement from the City?---Correct.

Were you paid the reimbursement?---I was reimbursed.

You were reimbursed?---Yes.

5

Why were you taking Mr Chow out for dinner?---It was a lunch.

What were you taking him out for lunch for?---He wanted to discuss business opportunity in the City.

10

That's why you had a lunch?---Yes.

Rather than just a meeting?---Yes.

15

If we can go back now to 0085, thank you, Madam Associate. Would you agree with me with respect to this Council Policy - incidentally, Mr Yong, I should say to you, these were the guidelines that have been in place since 22 February 2011. So this particular Council Policy, 10.12, has been in place since before you became a Councillor and the other one that we looked at, that had been in place since 20 1998. So both policies, unchanged since those dates. So bearing that in mind, do you agree with me that that policy simply does not allow - I'm talking about 10.12 - does not allow for a Councillor to take his or her friends to the dining room for a free meal?---Yes.

25

You would agree with me?---I agree.

[11.30 am]

30

35

40

45

So why did you do it?---I did not observe the policy properly.

You ignored the policy, didn't you?---Yes.

5 And there were other Councillors who ignored the policy as well, didn't they?---Yes.

Who were they?---To attend the dining room - - -

10 Did you see other Councillors using the dining room when they just had their friends there?---I do.

You do recall seeing that?---On some occasions during my dining in the dining room, yes.

15 So you weren't the only Councillor?---No, I meant when I observe when I was dining in that particular day or night, I observed some others, Councillors organising a table as well.

20 Did you know that they were just friends of theirs or relatives?---Yes.

You did?---Friends.

Was this on a Saturday night?---I can't recall Saturday night or Friday night.

25 But for the dinners, am I right in saying with respect to Saturday night, the Councillors had an unwritten rule amongst them that they could invite whoever they wanted, is that right?---Sorry, what was your question?

30 Councillors believed that particularly on a Saturday night, they could invite whoever they wanted to, to use the dining room?---My understanding, yes.

Completely ignoring the Council Policy?---Yes.

35 And do you know who is responsible for the wording of Council Policies?---The Council.

The Council, yes. So what's the point of having a Council Policy drawn up by the Councillors if it's then just ignored?---No point.

40 There's no point, is there? Just bear with me for one moment. Thank you, sir. Sorry for that. You see, Mr Yong, there was a financial incentive for Councillors not to follow the Council Policy, wasn't there?---Yes.

45 Because you could entertain friends without paying a single dollar?---Yes.

So what would you think the ordinary City of Perth ratepayer would think of that

behaviour?---Unacceptable.

So why was it done by you and other Councillors then?---I failed to observe the policy properly.

5

And why was that? Why did you fail, not just to properly follow the policy, but fail to follow it at all in certain instances when you invited your friends?---Should revisit, should read and study the policy properly.

10 Sorry?---I should study and read the policy properly and follow strictly.

Did anyone ever bring it to your attention and, to your knowledge, the attention of other Councillors who were ignoring the policy, that they shouldn't do it?---No, no such time during my Councillor, it was not brought to my attention that I should follow the policy strictly.

15

Or just simply follow the policy. It's not a question of strictly, is it? It's just following it. It makes it quite clear there, doesn't it?---Yes.

20 In fairness to you, Mr Yong, you're not the only one that the Inquiry has, through its investigations, discovered the generous use of the dining room. There are no less than five Councillors during the Inquiry's Terms of Reference, which is from October 2015 to March of 2018, expended more than \$20,000 in the dining room. So you were one of five?---Yes.

25

Am I right in saying that wouldn't surprise you at all?---No.

COMMISSIONER: Mr Yong, you will have to speak up, please. It is very hard to hear you?---No, sir.

30

MR URQUHART: We have already mentioned this and I'm going to ask you some questions about it, about the fact that Elected Members were allowed an annual limit of \$13,360 for expenditure associated with travel and entitlements?---Yes.

35

But that didn't include the costs associated with the use of the dining room, did it? It was separate to that?---Separate to the \$12,000.

40 But it included clothing, apparel, dry cleaning, personal presentation, and incidental costs provided those costs were associated with the Councillor's attendance at Council related functions and activities?---Yes.

Is that your recollection?---Yes.

45 I know you weren't re-elected in 2017 in October, but prior to 21 November of 2017, so it was including the time when you were a Councillor, there was no annual limit on how much a Councillor could spend on clothing, apparel, dry

cleaning, personal presentation and incidental costs but since that date it's been limited to \$3,000 per year. I just want to ask your personal view as to whether you think that is a reasonable limit to place on Councillors?---Yes, I agree.

5 Mr Yong, would I be right in saying, like your budget you had for the dining room, you also used most of your allowance every year for that \$13,360?---Yes.

What did you use that on?---A range of uses, transport, taxi, clothing, further education, seminars, travel.

10

Travel to what, to seminars and forums and things of that nature?---Yes.

Did you also keep an eye on not going over that annual limit of \$13,360?---Yes, I do.

15

The Inquiry's investigations indicate that you claimed nearly \$56,000 for travel, conferences, taxis and clothing and the like, and the use of the dining room, in the two years from October 2015 to when you lost the election in October 2017?---Yes.

20

Does that sound about right to you?---For both travel and reimbursement, both together and dining.

Yes, altogether?---Yes.

25

That sounds about right?---That sounds about right.

I will ask you the same question as I asked you before regarding your use of the dining room. So with respect to those costs that you have incurred for seminars, forums, clothing, taxis and the like, are you of the view that the City got a good return for the money expended there?---For the travel expenses, I travelled, other than taxis to attend meetings at WALGA, attend civic function, travel claim to the States.

30

35 You went to the United States, did you?---Yes.

What was that for?---I was invited to attend the leadership program, it's called IBLP. The topics of that conference was on States and Local Government.

40 So that was a good return for the City, you attending that conference?---Yes.

So you learned things - - -?---Learning other countries' judiciary, legislative systems and understanding how they operate, yes, I do.

45 Were there any presentations there on how to be a good Local Government member?---There was none on that.

Nothing on that?---On that conference.

Did you attend any seminars or conferences to your memory that dealt with that subject matter?---Yes, I did claim for Diploma of Local Government.

5

So you actually studied for a Diploma for Local Government?---Yes.

And did you obtain that diploma?---I just recently obtained that diploma.

10

Recently obtained, since you've finished as a - - -?---I started in 2016.

Yes, so during your term?---And completed after 2017.

So for some of that, the City of Perth paid for?---Some of it I paid for.

15

Yourself?---By myself.

There did you have courses and seminars and lectures and reading material regarding what makes a good - - -?---Good material, yes.

20

What makes a good Councillor, yes?---Yes, on the topics, on seminars that I attended.

Anything about ethical behaviour?---It would have been part of that diploma.

25

It would have been part of that diploma?---Yes.

Did read - that subject matter of ethical behaviour, can you recall whether that was before or after you failed in your re-election bid in October 2017?---Couldn't recall which actual date I attended that seminar and materials were provided, like it's during that term, 16, 17 or 18.

30

When you read that material, did you believe that your conduct as a Councillor ticked all the boxes insofar as ethical behaviour was concerned?---No, I did not tick all the boxes. I should check - follow that guideline.

35

But with respect to when you were a Councillor, did you believe on looking at that, as to how to behave ethically as a Councillor, you had followed all those ethical requirements?---I would believe so.

40

You believe so?---Yes.

What then about your use of the dining room?---No.

45

You failed there?---I failed.

Any other areas that you thought you might have failed in?---In any other area in

the Council?

5 Yes?---The Local Government is a vast area, whether you have any legal knowledge or not is irrelevant, so we need to have a better understanding of what is the Local Government. So I decided to take up the course, Diploma of Local Government, to have a better understanding what is required for all Elected Members. Whether you have legal background or engineering, or any background of knowledge, it's insufficient to have that in a training for each Councillor

10 [11.45 am]

15 I see, but my question to you was, as a result of doing that course, and I was concentrating particularly on the ethical side of things, apart from your use of the dining room, did you conduct yourself as a Councillor in any way that didn't meet the appropriate ethical standards?---No.

So the dining room was it, was it?---Dining room, reimbursement claim.

20 There was a reimbursement claim, was there, that you shouldn't have made?---No, you're asking what it is I should have claimed?

No, Mr Yong. I am simply asking you, we have identified one area where you've admitted you did not behave ethically?---On the dining room.

25 With the dining room?---Yes.

And I'm asking you now whether there was any other conduct by you as a Councillor?---No.

30 That was not ethical?---No.

No?---No.

35 You're sure about that?---Yes.

Is the Commissioner minded to take a morning break, or shall we continue?

COMMISSIONER: I'm happy to take a break, a short break of 15 minutes. Thank you.

40

WITNESS WITHDREW

(Short adjournment).

45 HEARING RECOMMENCED AT 12.01 PM.

MR Yit Kee YONG, recalled on former oath:

COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

5

Mr Yong, this Inquiry was announced in April of last year and that was the month after the City of Perth Council was suspended. I understand you weren't on the Council at that point in time. Though you weren't a Councillor then, did you become aware that the Inquiry's Terms of Reference covered the period in which you were on Council? Did you become aware of that at some point?---Yes, cover until 2018, yes.

10

Sorry?---The period that covered the Inquiry is until 2018.

15

That's right, but it also covered the period from 1 October 2015 through to 1 March 2018?---Yes.

Regarding the Inquiry's Terms of Reference and the fact it covered that period, did you find that out at about the same time as the Inquiry was announced, at or about? Did you find out about that shortly after the Inquiry was announced?---No.

20

When did you find out that the Terms of Reference covered the period of time in which you were a Councillor?---When I receive a notice from the Inquiry.

25

When you received a notice?---Notice of - produce documents.

When was that?---It's August/September.

Some time last year?---Last year.

30

But you were aware before then though that the Terms of Reference covered a period in which you were a Councillor?---Yes.

You knew about that. Did you have an expectation then that you would most likely be called as a witness?---Yes.

35

Did you become aware that the Inquiry had created a website for itself?---Eventually, yes, I found out there's a website.

40

Did you become aware of the website some time last year?---Late last year.

Late last year. You obviously looked at that website?---Yes.

Did you see on that website the Inquiry's Practice Directions, did you see those there?---Yes, but I did not read thoroughly what is - - -

45

You didn't read thoroughly?---I knew there was a Practice Direction.

Being a lawyer, you knew what would be contained in those Practice Directions, didn't you?---I don't know the content of the Practice Directions.

5 You'd know generally?---Generally, yes.

What would you know generally? What did you find out generally from those Practice Directions?---Rules and duties and what to follow.

10 Did you subsequently read those more closely?---No, I did not.

They were attached to your summons to give evidence at a private hearing last month, weren't they?---Yes, Terms of Reference.

15 And the Practice Directions?---Practice Directions.

Yes?---Yes.

MS STANTON: Objection, Mr Commissioner. I understand - - -

20

COMMISSIONER: Should this be heard in the absence of the witness?

MS STANTON: Yes, perhaps.

25 COMMISSIONER: Madam Associate, would you please take Mr Yong out of the hearing room while I hear the objection.

WITNESS WITHDREW.

30 COMMISSIONER: Yes, Ms Stanton.

MS STANTON: On my instructions, Mr Commissioner, the Practice Directions were not attached to the summons. I don't know if my friend perhaps wants to - - -

35 COMMISSIONER: Just clarify that, thank you.

MR URQUHART: Thank you, Commissioner. I've got some instruction from my instructing solicitor and I know a question I can ask which will be more precise.

40 COMMISSIONER: Very well. Thank you, Ms Stanton. Thank you, Mr Urquhart. Madam Associate, would you please bring Mr Yong back into the hearing room. Thank you. Mr Yong, please resume your seat in the witness box

MR Yit Kee YONG, recalled on former oath:

45

COMMISSIONER: Mr Yong, in your absence, an objection was made by your counsel and it was dealt with. Mr Urquhart.

MR URQUHART: Thank you very much, sir.

5 Mr Yong, I will just take a step back. Am I right in saying you received by email your summons?---Yes.

And there was also a letter that was attached to that email?---Yes.

10 A covering letter which explained why it was that you were receiving the email, do you remember that?---Yes.

In that letter, was there a link to the Inquiry's Practice Directions?---Yes.

15 Did you go and have a look at those Practice Directions when you got your summons?---Not at that point in time.

When did you read them? You said you skimmed through them, when did you read them more closely?---When I'm looking at the website.

20 Sorry?---When I'm looking at the website.

Was that last year some time?---Either late last year or early this year.

25 So late last year or early this year, you looked at the Practice Directions?---Yes.

And did you read them?---I skimmed through them.

You skimmed through them?---Yes.

30 Yes?---Yes, scrolled through on the website.

When you went on to the Inquiry's website, did you also see the transcript of the then Counsel Assisting's opening address on 21 November of last year?---No.

35 No?---I did not read it.

Did you watch it? Did you watch Counsel Assisting give her opening address?---Yes, I did, but recently - only recently.

40 Only recently?---Yes.

When was that?---Last week or last two weeks.

45 Last week or the last two weeks?---Last two weeks.

When you read that, did you notice that there was a reference to the fact that private hearings and public hearings would be undertaken by the Inquiry?---Yes.

What is your understanding, Mr Yong, as a lawyer, of a private hearing conducted by a body such as this Inquiry?---Private hearing, as in - my understanding is without the public present.

5

Yes, and what other restrictions are placed? Are you aware of any others?---Private? My understanding is private means others not in - - -

10 Not in the hearing room?---Not the hearing room, they are considered as private hearing.

And by the very word, do you understand there are limitations on who is to know as to what was said at a private hearing?---Only the related person.

15 Only?---Related person.

Only the related person, only the person in the witness box, is that what you're saying?---The related person and in the - during the Inquiry, private hearing, is that your question you're asking?

20

I'm asking what your understanding is as to who is to know what is being said at a private hearing? Obviously it's the Commissioner?---The Commissioner, solicitor assisting and my lawyer.

25 And the lawyer of the witness?---Yes.

Why do you believe this Inquiry would want to conduct private hearings before it began its public hearings?---To keep private.

30 To keep what private?---Keep the hearings and information private.

Yes, to keep the evidence confidential?---Yes.

Yes?---Yes.

35

And what about the witnesses who are called, should that be kept confidential as well?---Yes.

40 Do you agree with me there's no point having private hearings if witnesses called to give evidence at those hearings then tell other witnesses about what they have been asked, do you agree with that?---Agree.

There's no point?---No point.

45 No point having a private hearing if they tell other people or other witnesses about what evidence they gave?---Yes.

No point?---No point.

You gave evidence before the Inquiry at a private hearing last month, didn't you?---Yes.

5

3 July 2019, does that sound right?---Yes.

Prior to that hearing, who else did you know had previously been summonsed to give evidence before the Inquiry at a private hearing?---Who else do I know?

10

Yes, who else did you know had been summonsed to give evidence at a private hearing before you gave your evidence at your own private hearing?---Councillors and ex-Councillors.

15

You were aware of that?---Is mostly likely they will be like me.

No, I'm asking you who else did you actually know had been summonsed to give evidence before the Inquiry at a private hearing?---I don't.

20

I will ask the question again just so you understand it. Prior to you giving your evidence on 3 July 2019, was there anyone else who you knew had given evidence at a private hearing before then?---No, I don't.

25

Are you absolutely certain about that? Are you absolutely certain about that, Mr Yong?---Yes.

Are you absolutely certain that no-one else had told you that they had been summonsed to give evidence at a private hearing before you?---No.

30

[12.15 pm]

Mr Yong, were you in the back of the hearing room when I gave my opening address? Were you?---Yes.

35

Did you listen to my opening address?---Yes.

Did you pay attention to what I said?---Yes.

40

About questions being asked during the public hearings?---Yes.

And it's no longer the stage where the Inquiry is seeking information, yes?---Yes.

45

I will ask the question in this way then, Mr Yong: in February of this year who did you become aware had been summonsed to give evidence at private hearings?---In February this year?

Yes?---In February?

Or any time, January, February, March, April, May, June, before you gave evidence in July?---In February - early this year, I'm not aware of who has been called, even myself, I haven't received any - - -

5

I know that. I'm asking about others. Who did you know was being called to give evidence at private hearings of this Inquiry in February and early March of this year?---Who?

10 Mr Yong?---I'm trying to think hard who I know because how would I know?

You would know because they told you?---That they will be having a hearing later in the year?

15 Mr Yong, what happened at the end of your evidence back in July of this year? What did you hand over to the Inquiry, at the Inquiry's request?---There's a receipt written down.

What did you hand over?---It's a - it's a City of Perth document - - -

20

What did you hand over to the Inquiry at the end of your evidence, barely a month ago, what item of yours?---Is a mobile phone.

Yes. Had you forgotten that?---No.

25

Would you now like to truthfully answer the question I've asked you as to who you're aware had been summonsed to give evidence at private hearings of this Inquiry before you received your summons?---It would be likely Lisa.

30 Sorry?---Lisa.

Lisa?---Lisa Scaffidi.

35 You became aware that she had been summonsed to a private hearing?---She did not tell me any dates but I just - a hi and bye message.

She what, sorry?---Just a hello, how are you, hope you are doing well message, not about the actual content of private hearing or - private hearing.

40 But this message, as I understand your evidence is what, that she told you she had been summonsed?---No, just hi and bye, just a communication. I don't even know the date.

Did you know that she was going to be giving evidence at a private hearing?---No.

45

Then why did you mention her name?---Because she communicated with me.

But it was only a hello, how are you?---Yes.

Nothing about her being summonsed to give evidence at a private hearing?---No.

5 So what made you think that she had been summonsed?---Because I can't recall actual - no, I made a mistake.

You made a mistake?---Yes, there's no actual hearing date.

10 No actual hearing date and she did not tell you she had been summonsed or was about to give evidence at a private hearing?---No.

So why then did you mention her name?---Because she the only person communicated with me.

15

What do you mean, the only person who's communicated with you - - -?---Related to - - -

- - - on your mobile phone?---Yes.

20

"Related to", you were about to say?---Related to the interested person, interested party.

25

Related to an interested party?---Interested - possible interested party in relation to the Inquiry.

I see. So what you're saying is she is the only person who communicated with you who was an Elected Member at the City of Perth with you?---Yes, but no mention about the hearing.

30

It's important to get that clear, Mr Yong, isn't it?---Correct.

What about other people who weren't Councillors? Any other people who you became aware had been summonsed to give evidence at a private hearing?---Sorry, I can't recall anyone that is - has informed me about that, the information that you enquired about.

35

You've got to keep your voice up because I can hardly hear you?---I can't recall that the person that you wanted that has communicated with me regarding the private hearing.

40

I'm asking you whether any people who have been summonsed to give evidence at private hearings told you or informed you, or you found out that they had in fact been summonsed, and you're saying you can't recall anyone?---No, no-one's contacted me regarding their summons for hearing.

45

Has anybody contacted you to say that they have been interviewed by an

investigator from the Inquiry? So not giving evidence at a private hearing but has been interviewed, has anyone told you that?---No.

No-one?---No-one.

5

So Mr Yong, are you telling me that you knew no-one had been summonsed to give evidence at a private hearing from your own family?---Oh, did you say my family members? Yes, Mitchell - investigator Mitchell Burnett, he came to my office and he asked for my sister's and my mother's contact details.

10

And you provided them to him?---Yes.

Nothing about them being summonsed to give evidence at a private hearing though, was there?---No, I did not receive any of those notice.

15

No?---It was sent directly to them.

So what was sent directly to them?---Email from Mitchell.

20

Which said what?---I don't know because it was sent direct to them.

So you don't know what that contained?---I don't know what the content was but the email from Mitchell is telling me that he need to serve document to two of them.

25

Serve documents?---The content of the email, yes, my understanding is he need to serve them document without going to their house to look for them.

30

Serve what sort of document?---Not sure about the actual content of Mitchell's email. It would be from the Inquiry.

Nothing about them being summonsed to give evidence at a private hearing though?---Yes, nothing from the email of Mitchell Burnett mentioned about what they are going to serve.

35

So did you subsequently find out what they had been served with?---Yes, eventually they tell me that they need to attend the Inquiry.

40

And you knew that it was going to be an examination at a private hearing, didn't you?---Yes.

So why didn't you provide that information to me when I asked you?---I did not recall in a summons, because I thought it was normal for Mitchell to deal with them indirectly.

45

I asked you, some time ago now, who else did you know had been summonsed to give evidence at a private hearing before you were summonsed and you said

no-one?---It just didn't click on my mind that it was my sister and my mother.

Why didn't it?---I never thought of - it doesn't click that.

5 I know you said that but I'm asking you why didn't it click, given the fact that you've given an oath to give evidence truthfully?---Because all my mind is thinking, the City of Perth and the related person, I never thought of my family members. My mind was just concentrating on the City of Perth and the people related, so it just didn't click in my mind.

10

Something seemed to click in your mind to nominate the Lord Mayor and she hadn't even told you?---Yes, because my mind is concentrating on the City and the related persons, like Councillors, ex-Councillors. I'm trying to hard to think whether they had communicated with me, so never jump into that space, thinking it's my family members.

15

I didn't limit my question to asking you whether any Councillors had told you they had been summonsed?---Yes.

20

I asked anyone?---Yes, I limited myself on that space and think who are the possible persons.

And you had forgotten about the fact that your own mother and sister you were aware of had been summonsed?---Yes

25

[12.30 pm]

Now, to make it abundantly clear, I'm talking about anyone, anyone you found out had given evidence at a private hearing before you gave your evidence - anyone.

30

So we have now established your mother and your sister, is there anyone else?---That's the two that I'm aware of.

Two others?---The two, the two of them, my sister and my mother.

35

That's it?---Yes.

Let's make this abundantly clear: I'm talking about anyone?---Yes.

40

You're aware of no-one else?---No-one else. Yes, it was good that you triggered my mind that it was my sister and my - - -

45

I'm giving you the opportunity to trigger your mind again. We are talking not years ago, we are talking months ago. I'm going to suggest to you there are two others who not just communicated with you over your phone but met with you regarding the fact that they had been summonsed and gave evidence at this Inquiry's private hearings?---Met, some time in February, March, April? Met?

They weren't people off the street, Mr Yong, people you know?---A private hearing? What's his name? That he told me he had been summonsed to a private hearing?

5 Yes?---Willie Lim.

Willie Lim?---Yes, that he was asking for piece of letter.

So it's taken you about 20-25 minutes to recall Willie Lim?---Yes.

10

And there was one more, I'm going to suggest to you; who was that?---It would have been Christine.

Yes, Christine Yong?---Yes.

15

No relative of yours, same surname?---Yes.

Why couldn't you remember those two 20 minutes ago?---Just can't recall, there's too much on mind.

20

If that was the case, why didn't you answer, "I don't recall" instead of, "No"?---Because I'm trying my best to recall and during your opening speech you said - - -

25 I said the Inquiry wouldn't accept an answer, "I don't recall" if the truthful answer is, "I don't want to recall" or "I don't want to honestly answer that question"?---Yes.

30 Christine Yong had worked at your law firm part-time in 2015 and 2016, hadn't she?---It would have been about that time.

And you became aware that she was interviewed by an Inquiry investigator late in 2018, weren't you?---It could have been around that time, yes.

35 She told you?---She told me that she would like to meet up with me.

Yes, that she had told you that she had met with an investigator late in 2018, and said his name was Mitch, didn't she?---Yes.

40 And she sent you a text on 6 February of this year, didn't she?---Yes.

You remember this now, do you?---Yes.

45 If the witness, Madam Associate, could be shown 8.1063, thank you. The TRIM, sir, is 22128.

COMMISSIONER: Thank you.

MR URQUHART: These are messages on your WhatsApp. What we need to go to is the very bottom of that page. Do you see that, there's a WhatsApp number, "Keith, Mitch rang me last week", do you see that?---Yes.

5

Do you remember receiving that WhatsApp message?---Yes.

From Ms Yong?---Yes.

10 Sir, bearing in mind the content of that WhatsApp message, is there any need to remind the press regarding suppression of certain details?

COMMISSIONER: Yes. If it has not already been posted, there will be posted on the Inquiry's website later on today an order in these terms:

15

Pursuant to section 19B(5)(c) and (d) of the Royal Commissions Act 1968 WA which has effect pursuant to section 8.20 of the Local Government Act 1995 WA the Inquiry Panel orders that publication of any personal information of any person referred to during the evidence given, or contained in any documents displayed during public hearings of the Inquiry during the period 5 August to 16 August is prohibited.

20

In this order, personal information means particulars of any person's contact details, including but not limited to his or her residential addresses, the addresses of any other residential or commercial properties in which he or she has an interest, post office box numbers, telephone numbers or email addresses; and (b), any person's bank account numbers.

25

30 MR URQUHART: Thank you, Commissioner.

Mr Yong, did you then subsequently find out that Christine Yong was to give evidence at a private hearing that month?---No.

35 No?---I did not. I'm not aware.

You weren't aware?---No.

40 What did you understand she was conveying to you when she sent you that message, "Keith, Mitch rang me last week"?---(Indistinct).

You knew that Mitch was an investigator with the Inquiry because she had spoken to you previously about the fact that she had been interviewed by him the previous year?---Yes.

45

So she didn't have to identify who Mitch was when she sent that - - -?---Yes.

- - - WhatsApp message to you because you knew exactly who it was?---I know Mitch is investigating but I don't know about the private hearing.

5 And are you saying you never found out that she subsequently gave evidence at a private hearing?---I knew about the investigation but I'm not aware of private hearing.

10 You weren't aware that she had received a summons to give evidence as a witness at this Inquiry's private hearing later that month? I can't be more exact and precise than that, Mr Yong?---Yes.

15 You maintain that's the case, do you?---I knew that she was being investigated by Mitch but I don't exactly know which day, which month or maybe she been called. So it's just I knew that Mitch contacted her.

Did you know that she had been summonsed to give evidence at a private hearing of this Inquiry before she attended that private hearing?---Am I aware that she received a private hearing notice?

20 I don't need my question repeated to me, Mr Yong, I would just prefer an answer?---I'm not aware - I'm really not aware of that private hearing.

You really weren't aware?---I'm not aware.

25 You weren't aware?---I was not aware but I know that Mitch contacted her asking for - - -

I'm not asking you about that?---About whether is - what kind of investigation, what nature, I don't know what nature is it. It's just Mitch is investigating.

30 Did you receive any other messages or communications from her that month, in February?---No.

Did you see her that month?---Yes.

35 We will get to that in a moment. Madam Associate, if you could put, please, 8.1065, TRIM number 22129, sir.

COMMISSIONER: Thank you.

40 MR URQUHART: This is a SMS message that was sent to your phone on 13 February of this year from Ms Yong. Would you read out the message for us, please?

45 COMMISSIONER: Read out the message clearly and loudly, please, Mr Yong?---"Received letter from City of Perth regarded to Osaka Gas. May see you tomorrow in the morning cankah."

"Received letter from City of Perth regarded to Osaka Gas. May see you tomorrow in the morning cankah." Do you know what she meant by that word?---Yes.

5

What does it mean?---Is it okay.

It that okay?---Yes.

10 Is that what it means?---Yes.

Is that Mandarin?---Is colloquial slang.

15 Right, cankah, all right. I'm giving my age away, sir, I think, "Received letter from City of Perth regarded to Osaka Gas. May see you tomorrow in the morning, okay", does that jog your memory?---Yes.

You did see her the next morning?---It will be next morning or the day after.

20 Did she see you for the purposes of obtaining legal advice?---I don't know why she's coming for, so she just came up to my office.

25 But you understand, though, that a lawyer must not provide legal advice to a client about a matter if they have a conflict with that client?---I did not provide any legal advice.

No, but you're aware of that, aren't you?---Yes.

30 It's ethics 101, isn't it?---Yes.

There would be no way you would be able to be Ms Yong's lawyer at a private hearing examination of this Inquiry, would there?---Yes.

35 Because you've got a clear conflict?---Yes.

So you saw her then either the day after or the following day of 13 February?---Yes

40 [12.45 pm]

So she saw you at your offices, didn't she?---Yes.

45 And you asked her to show you the letter that she was talking about in that message, didn't you?---Yes, because I don't know what she's trying to talk to me about.

And she showed you the letter via her phone. She just emailed it through to you,

didn't she?---No, she show me on her phone.

She showed you on the phone?---Showed me on the phone.

5 Yes, and that letter spoke about the fact that she had been summonsed to give evidence at this Inquiry's private hearing, didn't it?---No.

No?---It was a letter from the City of Perth, remove her as an elector.

10 She also showed you that correspondence from the City of Perth but she also showed you the letter that she had got from this Inquiry, which is very much the same as the letter that you got a few months later about giving evidence at a private hearing, isn't that right?---I can't recall that part. She only told me that - to show me that letter from City of Perth, remove her from the list.

15 You think carefully now about your recollection regarding the other letter that I've referred to. She emailed through to you material that she received from the Inquiry that week, didn't she?---My recollection is that she show it to me on her mobile phone.

20 Either way, you saw it, didn't you?---Yes.

And you asked to see it, didn't you?---I asked - sorry?

25 Yes?---Yes.

Why?---Because she rock up at my office, I don't know what she's trying to tell me or what was her concern.

30 Why didn't you tell her, "You should not speak to me about this, I am going to be in all likelihood a witness to this Inquiry"?---I did. I said - after looking at that I said, "I can't talk to you" and then she left.

35 You had a look at that material after you knew what it was that she had received a letter about, didn't you?---I saw that letter, yes.

40 The letter that she was referring to in that SMS message was the letter regarding her being summonsed to give evidence at a private hearing, wasn't it?---No, this was an email from the City of Perth, correspondence from the governance.

45 But that's not receiving a letter - just bear with me for one moment, please. You understood that she had got that letter or obtained a copy of that letter from her interviews with an investigator from the Inquiry, didn't you?---My recollection for that purpose, she may have shown me the letter from the City of Perth by email, then - I can't recall that, the second letter on her mobile phone.

In that case, see if this can jog your memory. Madam Associate, if the witness

could be shown 8.1017, thank you. This is a letter from Mr Parkinson, a solicitor with the Inquiry, to Christine Yong on 12 February, a day or so before she started contacting you. "Subject: email outgoing, Christine Yong summons", do you see that?---Yes.

5

"Importance: high":

10 *Dear Ms Yong, I attach by way of service a summons of today's date. I also attach my letter of today's date and a copy of the Inquiry's Practice Directions. Kindly confirm receipt.*

She showed you that on her phone, didn't she?---No, I did not see this letter from Mr Parkinson.

15 Are you certain about that?---Yes.

So if her evidence was that she did show you that - - -?---She showed me the letter - - -

20 - - - on her phone, that would be wrong, would it?---She showed me a mobile phone with the Osaka Gas City of Perth letter, asking me what is that about.

I'm talking about this letter?---No.

25 No?---No.

Because you shouldn't be finding out about this, should you?---If I see it, I would know that straightaway because it's Inquiry into City of Perth.

30 Yes, and you shouldn't know about that?---Yes.

Should you, you agree?---Yes.

Are you sure you didn't see what else was attached?---No.

35

If we go to 1.1019, please, Madam Associate. Incidentally, sir, that last document, TRIM number 13676 and this is 13665.

COMMISSIONER: Thank you.

40

MR URQUHART: It's dated 12 January 2019, I think that's a typo, it should be 12 February 2019. It's addressed to Ms Yong and it's got a heading, "Summons to attend a private hearing"?---No, I've never seen this.

45 You never saw that?---Never saw this.

You knew that she was going to be summonsed to give evidence at a private

hearing, didn't you, on or about 13 or 14 February this year? You knew, didn't you? You weren't supposed to know but you knew?---I knew that she's been investigated by Mitchell.

5 Yes?---But summons or whatever investigation, I don't know what's the content are.

But you knew she had been summonsed to give evidence at a private hearing later that month, didn't you?---No. I knew that she's going to be called.

10

Called as a witness at a private hearing, yes?---Yes. I never seen this letter and the email.

So she told you that then, did she?---She told me that verbally.

15

Sorry?---She told me verbally.

She told you verbally that she had been summonsed to give evidence?---No, she's told me that she's been investigated by this person called Mitch.

20

Yes, but you knew that several months ago because on 6 February she's referring to him by his first name without providing you with any further information, do you remember that?---Yes.

25 So you already knew that?---I knew.

She was seeing you now here in February because she had been summonsed to give evidence?---Correct.

30 So you knew when you saw her on 13 or 14 February that she had been summonsed to give evidence before the Inquiry at a private hearing?---Yes.

Yes?---Yes.

35 COMMISSIONER: Mr Yong, why has it taken you so long?---Because I never - -
-

40 Just wait until I've finished. Do not interrupt me, please. Why has it taken you so long to give that answer to a very straightforward question?---I have misunderstood that. I have never seen this letter, I see the second letter but I was told to look at this letter. I knew that she received a summons but I've never seen this letter so I can confirm that, I knew about this summons.

Is that all you wish to say to me in answer to my question?---Yes.

45

Mr Urquhart.

MR URQUHART: Thank you, sir.

You also told Ms Yong that she didn't need to worry and there was no need to panic about the fact that she had been summonsed, isn't that right?---No.

5

No. So if that was her evidence or her recollection, that would be wrong?---She showed me the letter from City of Perth about the Osaka Gas, about being removed, so I saw that email.

10 And we have now also established that you did know that she was going to be summonsed to give evidence at a private hearing and you, in response, when you found that out, you told her, "There's no need to worry, there is no need to panic", didn't you?---Yes.

15 Yes?---Yes, I recall that, but I told her she need to look at - she need to deal with that matter by herself, of that email from City of Perth regarding Osaka Gas, and she left.

She was there for about an hour, wasn't she?---No.

20

No?---30 minutes, half an hour.

25 30 minutes, half an hour? What did you talk about?---She showed me that email on her mobile phone, then I ask her why she's showing me this because I knew what the email was about because I put her name on the roll, on the enrolment form and she showed me that email, asking why she received this email from City of Perth. So I said, "You look at the content of the email, the reason given by City of Perth that" - she's not eligible, she's being removed from the enrolment list.

30 Yes?---So I said, "If you've been removed, you're removed, so you're not eligible, you can't vote", I said.

35 That might take care of a few minutes, what about the rest of the meeting, what did you talk about?---Just that we discussed this and that, this and that. I said, "Why" - - -

40 What's this and that?---"Why did you receive this email? Did you inform the City of Perth about removal of your name or did you just suddenly receive the email from the City? "

So you were discussing with her the questions that you believed she was going to be asked at the private examination, is that right?---No, I was just dealing with what her issue is because I was the one who put her name on the roll.

45 Yes, and you were discussing topics that were most likely going to be addressed by the Inquiry at her private hearing?---Yes.

Why? Why, Mr Yong? You weren't even supposed to know about the private hearing?---I didn't know about that because it's all directly connected to me with Osaka Gas, I put her name on the roll.

5 [1.00 pm]

We know all that?---Sorry.

10 Don't worry, you will be questioned about that in due course. I'm just wanting to know why it was that you thought it appropriate to discuss her potential evidence at a private hearing with respect to a matter that you were involved in?---I should not have.

15 So I'm going to ask the question, why then did you do it?---Because without seeing that - the letter from Nicholas, I just assumed that it was general discussion about the email from the City.

20 It's inappropriate for you to do it, so I want to know why then you did it?---I did it - it was my ex-staff.

Sorry?---Ex-staff.

You did it because it was your ex-staff, is that your explanation?---Yes.

25 What about the explanation that you wanted to make sure that she didn't say anything detrimental to you at her private hearing examination?---I don't know what she said.

No?---So - - -

30

You were trying to reassure her though that she hadn't done anything wrong, you were doing that, weren't you?---Because I was the one who suggested her name on the roll so I was the one who nominate her and it was not her problem.

35 Were you trying to reassure her that she had done nothing wrong?---No.

No? Were you also telling her that you had done nothing wrong either? You were telling her that, weren't you?---Yes. I was - - -

40 Did you tell her that or not, Mr Yong?---I did not tell her what actually went wrong or what it was actually going to go wrong or any advice, I just tell her that, "Your name, if you receive that email from the City, that's the - they will come" - - -

45 Mr Yong, I'm going to repeat the question again. You told her, didn't you, that you had done nothing wrong?---To that effect, yes.

And that she hadn't done anything wrong either?---Yes.

And that there was no need for her to be worried or to panic?---Yes, to that nature and effect, I told her that.

5

Sorry?---To that nature and effect of that conversation, yes.

And this is a conversation you should never have been having with her, isn't that right?---That's correct.

10

Yes, because you shouldn't have even known - - -?---Yes.

- - - about the private examination?---Yes.

15

I think we are now going to break for lunch, Mr Yong. I'm going to be asking you some other questions - - -?---Sure.

- - - regarding your knowledge of other people who gave evidence at private hearings, okay?---Okay.

20

Is that a convenient time, sir?

COMMISSIONER: Yes. I will adjourn until 2.05.

25

WITNESS WITHDREW

(Luncheon Adjournment)

30

35

40

45

HEARING RECOMMENCED AT 2.05 PM

MR Yit Kee YONG, recalled on former oath:

5 COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

10 Mr Yong, I know you said before lunch that you had skimmed over the Practice
Directions of the Inquiry on the website. I just want to take you to Practice
Direction 5.3 and it's under the heading, "Private hearings", and it reads this:

15 *Where the Inquiry conducts a private hearing, the Inquiry will direct at
the beginning of the private hearing that the witness who is being
examined, and his or her legal representative, must not disclose any
part of the evidence given by the witness, whether directly or indirectly,
to any other person unless that person has the prior and express written
authorisation of the Inquiry.*

20 It then concludes:

*Any such direction will continue in effect until the Inquiry has
concluded or the Inquiry orders otherwise.*

25 Mr Yong, as a lawyer, I gather you would expect such a Practice Direction for
private hearings?---Yes.

30 So hypothetically, if a witness who had just given evidence at a private hearing
began talking to you about their evidence, and you were not their legal
representative, what should you do?---Ask them to seek independent legal advice.

Sorry, you'd tell them to?---Seek independent legal advice.

35 And you would tell them, would you not - - -?---I would.

"You're not talk to me about that"?---Yes.

That's what you would do?---Yes.

40 You certainly wouldn't encourage them to talk to you, would you?---Yes.

You would - so you agree with me?---I agree.

45 And you wouldn't discuss their evidence with them, would you?---Yes.

And you wouldn't give them any documents relating to the questions that were
asked of them by the Inquiry, would you?---I would not.

I think you've already mentioned his name before lunch but you do know a Willie Lim, don't you?---Yes.

5 How long have you known him for?---For the past four or five years.

Four or five years? Longer than that?---Very slightly longer than that - at least four or five years.

10 Eight or nine years?---Maybe not that long.

How do you know him?---Through Sandra Liu.

Through who, sorry? Sandra Liu?---Sandra Liu.

15

Liu, just for the purposes of the transcript is spelt L-i-u?---L-i-u.

Is she a former Councillor of the City of Perth?---Yes, she was.

20 How did it come about that she introduced you to him?---Sandra invited me to Council and afterwards, she introduce Willie, after that meeting.

After that meeting, so this is before you ran?---Before.

25 Before you ran as a Councillor in 2013, yes?---I knew Willie after I ran for Council.

After you ran for Council, are you sure about that?---On or about that time.

30 On or about that time, through Sandra Liu?---Yes.

And was Sandra Liu still on Council at that time?---Sandra was in Council until 2011?

35 Yes. So was it around about 2011 then that you first met Mr Lim?---After.

After?---After.

What was your relationship then with him after that?---With Willie, friends.

40

Friends. Did he contact you in February of this year?---Yes, he did.

What was that about?---He asking for letter.

45 You spoke to him a number of times in February of this year, didn't you?---Yes.

Wasn't it the fact that the first time he contacted you was to tell you he had been

summonsed by the Inquiry?---He did not specify that. He says, "The Commissioner wants a copy of that letter."

5 I'm talking about before though. Before he gave evidence at the private hearing, were you not aware that he had been summonsed?---Yes.

Thank you, Mr Yong, for agreeing to that. He contacted you by phone on that occasion, did he not?---Yes.

10 And you knew he had been summonsed to give evidence before the Inquiry at a private hearing when he told you that, didn't you?---Yes.

This was at about the same time that you knew that Christine Yong had been summonsed to give evidence at a private hearing, wasn't it?---Yes.

15 Am I right in saying that you did not tell him on that first occasion when he told you that he had been summonsed to give evidence at a private hearing, you did not tell him, "Look, stop. I can't talk to you any more about that"?---On the first occasion, yes. On the second and third occasion I told him that he need to seek
20 independent legal advice.

Yes, but on the first occasion you didn't do that?---I didn't.

25 Why not?---If first time he rang and he sounded - he sounded quite worried and I was not sure what was his concern and I listened to his conversation

[2.15 pm]

30 Why?---He told me that he had been told that he was the perpetrator.

He was a what, sorry?---Perpetrator of fraud.

A perpetrator of fraud?---Yes, so he was worried that he will be in trouble.

35 Are you sure this wasn't in a later conversation that you had with him after he had given evidence? I'm talking about the first occasion when he told you he had been summonsed to give evidence at a private hearing and I would like to know why it was that you did not tell him what you should have told him right at the outset and that is, "You can't talk to me about this, you need to get your own legal
40 advice"?---Yes, I did not tell him on the first occasion. The subsequent occasion, I told him that.

45 And I want to know why it was you didn't tell him on the first occasion?---When I found out that is related to this, him being summonsed to the Inquiry, so I told him that on the second occasion rather than on the first occasion.

Yes, and I want to know - again, I will ask it again for the fourth or fifth time, why

it was you didn't tell him on the first occasion?---It was my mistake.

And why did you make that mistake?---Because he sounded so worried, I didn't thought - the summons, I thought he need help.

5

Yes, he needed independent legal advice, didn't he?---Yes.

You couldn't offer him independent legal advice, could you?---Yes, I couldn't.

10 Because you knew what he was going to be questioned about was concerning his conduct with you?---Yes.

Again, did you assure him that he had done nothing wrong and he had nothing to worry about?---I did not assure him, but he said he wanted that letter urgently.

15

Yes, that was after he had given evidence though, wasn't it? We will come to that. I'm just staying with the first conversation, before he had even been called as a witness. You told him, didn't you, that he hadn't done anything wrong?---It would be - - -

20

Sorry?---Similar to that effect.

Yes, and you also told him that you hadn't done anything wrong either?---Yes.

25 Did you discuss with him on that first occasion that he was obviously called to give evidence about him being a corporate nominee for one of your family companies?---Yes, he mentioned that.

Yes, and you were very interested in finding out about that, weren't you?---Yes.

30

So let me understand this: it's your evidence that you knew you should not be talking to him about possible evidence that he would be giving at the private hearing, is that right?---That's right. I gave him that letter.

35 This is subsequent though, isn't it?---Subsequent.

After he gave his evidence at the private hearing, he contacted you again, didn't he?---Yes.

40 25 February, wasn't it, the very same day he had given evidence at the private hearing?---Yes.

45 When he contacted you on that occasion, did you say to him, "No, I can't talk to you about the evidence you've just given at the private hearing"?---On the first occasion, no, I did not.

The first occasion after he spoke to you, following his evidence, you didn't say that

to him, did you?---No.

Is that what you should have done?---I should have.

5 Yes?---Yes.

You were a lawyer, or you are still a lawyer?---Yes.

10 And you know you should not be discussing the evidence with him that he had just given at the private hearing?---Yes.

So why? Why were you discussing his evidence that he had given at a private hearing that very day?---His intention was, he wanted that letter and he sounded upset.

15

Yes?---So I gave it to him.

Why? Because he was upset?---Yes.

20 So you ignored what you knew your obligations were, is that right?---Yes, I should have known my obligation seriously.

You did know your obligations though, didn't you?---Yes.

25 And you chose to ignore that?---I didn't observe seriously of the observation.

Sorry, you didn't?---I did not observe it seriously of that direction.

You couldn't care less, could you?---Yes.

30

This was the same day that he gave evidence before the Inquiry, wasn't it?---It would have been, but he didn't tell me.

And you met with him outside your offices, didn't you?---At the driveway.

35

Yes, and you gave him a copy of a letter that the City of Perth had given to you a couple of years earlier, two or three years ago, is that right? Is that right?---That letter was many years ago.

40 2016, wasn't it?---The letter?

Yes?---Should be 13.

13?---Should be 13 or 14, yes, 13, the letter.

45

COMMISSIONER: Mr Yong, I asked you before lunch to speak up. You will need to speak up because at the moment you are speaking so softly that the

monitor cannot hear you clearly enough to transcribe your voice. Do you understand me?---Yes, Commissioner.

MR URQUHART: Thank you, sir.

5

Was it the case of Mr Lim asking you about that letter or had you told him about the letter?---He asked me what this is about. I tell him that this matter has been resolved.

10 But he was asking you about a matter that he had been questioned about at the private hearing, wasn't he?---Yes.

And of course, you should have said to him, "You must not talk about any of the evidence you've given at the private hearing", that's what you should have said to him?---Yes, I should have told him that.

15

But instead, you gave him a letter?---Yes.

Did you find out, Mr Yong, that Mr Lim actually went back and gave further evidence before the Inquiry that next day?---No, I don't know.

20

Are you sure about that?---Sure.

Did you find out in the days afterwards that the Inquiry had taken his phone from him after he'd given that evidence and downloaded recent communications he had had with you, did you find out about that?---I didn't know that.

25

Are you sure?---I didn't know that, he didn't tell me.

Did you find out about other witnesses being summonsed to give evidence at the Inquiry's private hearings at the same time as you were communicating with Mr Lim about his evidence?---No.

30

No? When I'm saying other witnesses, I'm including members of your family?---My mother and my sister?

35

Yes. Did your mother send you an email that she had received from the Inquiry that had her summons attached to it? Do you remember that, via WhatsApp?---She send a letter via WhatsApp to me?

40

Sorry?---Are you asking me that my mother send me a WhatsApp message?

Yes, with her summons attached to it?---I can't really recall that.

Do you recall seeing the witness summons that your mother got?---I can't recall but at that point in time she was considering appointing a legal representation.

45

That might be the case but the question is, did you receive, from either your mother or another member of your family, the letter attached to the summons that she had received to give evidence at a private hearing?---I can't recall receiving that email.

5

You can't recall?---No.

This is less than six months ago, Mr Yong?---If she would have, she would have asked me to - like, opportunity to seek legal representation elsewhere.

10

How many times has your mother received a summons to give evidence at a hearing?---Once.

Once, and it was back in February of this year, wasn't it?---About that time, February.

15

To give evidence at a private hearing of this Inquiry, yes?---Yes.

You couldn't act as her lawyer for that, could you?---I could not.

20

No. So that wouldn't be a legitimate reason for you getting a copy of her summons, would it?---Yes, but she look for elsewhere for legal representation, for opportunity of elsewhere legal representation.

Legal representation from what, your brother?---No.

25

Because that would be inappropriate as well?---No.

That wouldn't be appropriate, would it?---Yes.

30

I'm going to show you some WhatsApp messages involving yourself and members of your family at or around about that time but before we do that, Mr Yong, can I ask you this: would you say anything to your mother or sister that would encourage them to obstruct the Inquiry's investigation into the City of Perth?---No

35

[2.30 pm]

You wouldn't do that?---No.

And did you do that?---No.

40

Did you suggest to either of them that they should not cooperate with the Inquiry?---No.

You're quite certain about that?---Yes.

45

Because that would be inappropriate, wouldn't it?---Yes.

You maintain that evidence, do you?---Yes.

5 Madam Associate, if we could have up on the screen, please, 8.1101. TRIM number, sir, 22178.

COMMISSIONER: Thank you.

10 MR URQUHART: This is material that the Inquiry has downloaded from your phone when you gave it to the Inquiry at the end of your evidence on 3 July of this year. Okay, Mr Yong?---Yes.

Look at me for a moment while I'm asking you that, you're aware of that?---Yes.

15 Don't worry, we will get to those messages in a moment. These are in chronological order and they start on 25 February 2019 at 9.27 am. Can you see that, there's an attachment that's been sent through on your phone via WhatsApp, do you see that?---Yes.

20 Then down below that, it's with your number and your WhatsApp account, do you see that Keith Yong, with a time stamp, 25 February at 10.04 pm and it reads, "Bro Joon", that's your brother, isn't it?---Yes.

25 "Mum received this email but mum never received calls from Nicholas Parkinson", and you recall sending that message to your brother?---Yes.

And what you were referring to "this email" is what you got sent by way of an attachment about 37, 38 minutes earlier, isn't that right?---Yes.

30 And that email was from the City of Perth which had a covering letter and a summons attached to it, didn't it?---Yes.

COMMISSIONER: Do you mean from the City of Perth or the Inquiry?

35 MR URQUHART: Sorry, my apologies, sir.

From the City of Perth Inquiry?---Yes.

40 So you did receive a copy of your mother's witness summons, didn't you?---Yes.

And you had read the covering letter and the summons which clearly showed it was a private hearing examination, didn't you?---Yes.

45 You shouldn't have got that, should you?---Yes.

You shouldn't have sent it on to your brother, should you?---Yes.

You see the response from your brother at 10.05 pm on 25 February, "We need draft a different letter to Nicholas", do you see that?---Yes.

5 What was your brother referring to there, do you know? Without looking at the screen there, do you know?---I don't know.

You don't know? You were drafting a letter though on your mother's behalf to provide to the Inquiry, is that right?---Yes.

10 In (d) then, we see that you got sent another message from your brother, also a lawyer, on WhatsApp, eight minutes later which says, "Draft only. Do not send out until all parties approved, thank you", and then there's a draft letter addressed to Mr Parkinson, or at least it refers to Mr Parkinson and the email that he had sent to your mum on that same day, do you see that?---Yes.

15 Is it a letter that your mother was to send through to the Inquiry, was it?---Yes.

About not being able to attend on the day that the Inquiry summonsed her to appear at, is that right?---Yes.

20 You see 4(a), "On 25 February 2019 I responded to the email stating that, including but not limited to the following: (a), due to the short notice I am unable to attend the Inquiry on 26 February 2019", et cetera; do you see that?---Yes.

25 So your brother, at least with your involvement, is preparing a letter for your mum to send to the Inquiry, is that right?---Yes.

Were you and your brother doing that in your capacity as lawyers or her sons?---Sons.

30 Sons, is that right?---Sons.

Then we see below that page that your mum has sent a WhatsApp saying where she has been, do you see that?---Yes.

35 Before we go to the next page, I will ask you this: do you remember getting your sister's summons to give evidence at a private hearing?---It would have been similar to my mum's one.

40 So you get your sister's as well, did you?---Yes.

Why?---She sent it through.

45 Do you have any idea why she sent it through to you?---I don't know why but maybe she's concerned, what is it about?

Did you advise her that she should seek her own legal representation and not be

sending this material to you?---Yes.

5 You did, did you? How did you do that?---We make arrangement with another lawyer but eventually both of them did not appoint a lawyer. They decided not to appoint lawyer.

10 Am I right in saying, though, that you continued to provide your own advice to your mother and sister as to how they should assist or not assist the Inquiry? Did you give them any sort of advice like that?---No.

You're certain about that?---Because - - -

Are you certain about that?---Yes.

15 You were going to answer why you can say you're certain about that?---Yes. Can I say that?

20 Yes?---First they going to seek for independent legal advice, it's up to their choice. Second is, their timing, whether they can make it on that day or not is their own schedule of appointments. So it's not up to me whether they can make it for the Inquiry or not, or any response.

25 So you've now got a witness summons that's been sent to your mother and the witness summons that's been sent to your sister. We go now to page 8.1102, thank you, Madam Associate, that same TRIM number, sir.

COMMISSIONER: Thank you.

30 MR URQUHART: Do you see there at the top of the page, there's a message sent from your mother's WhatsApp account at 10.55 am the next day now, 26 February, do you see that?---Yes.

"JK" is that a reference to your brother?---Yes.

35 "We will discuss more when I get to office soon, mom", do you see that?---Yes.

So did your mum attend your and your brother's law firm that morning?---Yes.

40 What was discussed there? Look at me, you won't find the answer on the screen there. What was discussed when your mother came to your office and your brother's office that morning?---She would have met my brother.

Yes?---They would have discussed about responding.

45 Were you present when they had those discussions?---Not that I can recall for this occasion.

You may well have been? The answer's not on the screen, Mr Yong?---Not on this occasion.

Not on that occasion, you weren't there?---Yes.

5

Any other occasions, though?---The office is just next door so they can come over any time they want.

10 Did your mum come in and speak to you on this particular day? This was the day she was supposed to give evidence before the private hearing, so that's something that should stand out in your mind, I'd suggest to you. Don't look at the screen, you won't get the answer there?---Yes.

Did she discuss anything with you on that day?---No.

15

Or any other day before she eventually gave her evidence?---No.

Do you know what day she gave her evidence?---I don't know the actual date.

20 But you knew it was a change from 26 February to another day, didn't you?---Yes, I knew.

25 We see there on the screen that on 26 February at 11.34 am, your sister has sent through, I suggest to you, her witness summons, hasn't she? Do you see that?---Yes.

Is that right, those attachments was her witness summons and the covering letter?---I would assume, yes, most likely yes.

30 The next WhatsApp message is from your mum at 11.59 am on 26 February which says, "It looks like they want a long weekend so pushed us to Tue" - Tuesday - 5", do you see that?---Yes.

35 Your brother thought that was amusing because he responded at 12.07 pm, "Haha", do you see that?---Yes.

So you received all these messages, didn't you?---Yes.

40 You never said at any point, "Hey, keep me out of this, I shouldn't be knowing anything about this", you didn't do that, did you?---I did not.

Why not?---It was just a communication between them. I just saw it and I ignore it.

45 You ignored it? Are you saying you didn't partake in any of these communications on 26 February? The answer's not there?---It would have been maybe some comment in communication in that group.

Any comment about cooperating or not cooperating with the Inquiry?---It would be on the messages.

5 I'm asking you whether you remember that or not?---No.

You don't remember? It would have been entirely inappropriate for you to offer that sort of advice, wouldn't it?---Yes.

10 Then the next message from your mum on 26 February at 1.04 pm "Choo, I have confirmed receipt of summons via email", who is Choo?---My sister

[2.45 pm]

15 Your sister, but your mother's included you in that message as well, hasn't she?---In the message group, yes.

Then your sister Angie responds, six minutes later, with, "I just did too", do you see that?---Yes.

20

You were still reading these messages, weren't you?---Yes.

Did you then subsequently find out that these summons now required them to attend on the Tuesday, 5 March of this year?---I think about that time, yes.

25

The last message then on 26 February at 2 pm is from your mum saying, "Now this Nicholas is asking whether my mob is operational wah. Now he has sent a new summons. Why still need to speak"; do you remember reading that message?---Yes.

30

Was "mob", is that a reference to her mobile telephone number?---Most likely, yes, that means mobile number.

Because your mum was saying she wasn't getting any messages from Mr Parkinson on her mobile number, you remember that, don't you? You're nodding your head, you have to answer?---Yes.

35

Thank you. That's for the purposes of the transcript, Mr Yong?---Yes.

40 So let me get this abundantly clear. You say you weren't offering any advice, legal or otherwise, to your mother regarding this latest summons she's received, is that what you're saying? You didn't provide her with any advice?---No, I arrange them to speak to another lawyer.

45 That's what you ought to have done but did you?---They initially made appointment with a lawyer but finally they decided not to proceed with a lawyer.

You weren't going down that path though on 26 February, were you?---It's about that time I arranged them to speak to a lawyer nearby.

5 But not before providing them with your own advice, your own legal advice to them, isn't that right?---Not providing any legal advice to them.

Or advice at all?---No.

10 You didn't do that?---Yes. I initially asked them, "You need to speak to a lawyer", whether they want to appoint a lawyer and I make arrangement - appointment with that lawyer but they finally decided not to proceed.

15 Because there's an another page of WhatsApp messages, Mr Yong, that's why I'm giving you the opportunity of telling the Inquiry what it was you were telling your mother and your sister to do or not do with respect to their private hearings examinations?---I can say that you - the Inquiry can call that lawyer whether such appointment been made but subsequently been cancelled.

20 That is the only advice you provided them? The answer is not there yet on the screen, Mr Yong?---No.

You're the only person who was using your account to send messages on WhatsApp, is that right?---Yes.

25 No-one else was using your phone on 26 February?---The office can access to my WhatsApp.

Can they?---Yes.

30 Who are the lawyers though in your office?---That would be my brother.

35 Anyone else accessing your WhatsApp?---The WhatsApp is a WhatsApp on a web page so it's on my screen. So when I'm away for meeting or on phone call or away, outside of office, they can access my WhatsApp or other application to deal with my clients.

I see. Dealing with communications with your family, are they communications that only you would send?---Either me or my brother.

40 Particularly with respect to this matter, your mother and sister being summonsed to give evidence at a private hearing, the only people involved in those communications were yourself, your brother, your mother and your sister, is that right?---In this WhatsApp group, yes.

45 And you were each using your own mobile number to send the WhatsApp messages, weren't you?---Yes.

At the bottom of that page, 1102, we can see that this next message is going to be from your mother at 2.02 pm. So we now go to 1103, thank you, Madam Associate. I want you to just concentrate on the very top, that message there from your mother, "Someone grumbled that I should have" - and I'm just using the full words of the abbreviations - "I should have went on Tuesday abd, get it out of the way. Now I'm getting all the stress, wah", do you see that?---Yes.

And then your sister responded, did she not, a minute later, "No-one is stressed by this as much as he is", do you see that?---Yes.

Do you know who she was referring to there?---In this context, maybe Nicholas.

Maybe Nicholas, right. Then you have sent a message, haven't you?---Yes.

Can you see that?---Yes.

One minute later, in fact, nine seconds later. Read out what you've sent?---"You have no obligation to answer his email."

"You have no obligation to answer his email", who were you sending that to?---In the WhatsApp group.

Who are you sending it to specifically though, who was the "you"?---My mum or my sister.

Yes, your mum or your sister and "his email", is that Mr Parkinson's email?---Yes.

So you're telling them they don't have to answer his email, is that right?---Yes.

Why were you doing that?---Because they told me that they had advised Nicholas over the phone already.

What was that about, what had they responded to?---They responded to Nicholas about arranging a time, a suitable time for the hearing.

Your mother then sends another message at 2.03, "He is" - upper case - "STRESSED by everything, lah", then you respond, do you see that, a minute later, or less than that, 15 seconds later, "Just leave until 5 March 2019" and there's an attachment to your message. What was that attachment?---The attachment was sent from my mum.

To your mum?---Was sent from my mum.

Was that an attachment regarding a letter from the Inquiry?---I can't recall that, maybe it's a screen shot or something. I'm not sure what's the attachment one.

But you're providing some advice, "Just leave it until 5 March 2019", is that

right?---Yes.

So you're providing your mother with what? Legal advice, are you?---Personal advice.

5

Sorry?---Personal advice.

Personal advice about a legal matter, yes?---Yes.

10 That's legal advice then, is it not, if you're a lawyer?---It's a family.

COMMISSIONER: Just because you're dealing with a family, Mr Yong, does not make it something other than legal advice, does it?---Yes.

15 So what's the answer to counsel's question? Was it legal advice or was it not?---As a legal practitioner it would be a legal advice.

What troubles me, Mr Yong, is you knew that, you must have known that was the correct answer to the question, and yet you've chosen not to answer it directly.

20 Why have you done that?---Because I answered this question as her son, I replied this message as her son.

That wasn't the question you were asked though, was it? You were asked whether it was legal advice?---Yes.

25

From this point on, Mr Yong, in fairness to you, I am warning you that you need to listen very carefully to the questions you are being asked by Mr Urquhart and you need to give direct answers to those questions. Do you understand me?---Understood, Commissioner.

30

This is not time to play games, all right? Yes, do you understand?---I understand.

Thank you. Mr Urquhart.

35 MR URQUHART: Thank you, sir.

Then we can see in the next WhatsApp message from your mother, "I know. I'm not going to, hee hee", do you see that?---Yes.

40 So she's accepted your legal advice, hasn't she?---Yes.

Then you respond 22 seconds later, do you see that?---Yes.

"If you keep entertaining him, he will keep sending email"?---Yes.

45

What did you mean by that?---I meant they have already responded to him by telephone calls and they have already confirmed that prior conversation and they

arrange matters.

Why do you refer to that as "entertaining him"?---Maybe it's not right choice of word that I use.

5

What word should it have been?---If you keep replying him.

I'm sorry?---If you keep replying him.

10 "If you keep replying, he will keep sending an email"; well, he won't, will he? If she replied to the email instead of waiting until 5 March, then he wouldn't keep sending the email, isn't that right?---Yes.

So what were you trying to say there?---Giving them advice.

15

Sorry?---Giving them advice.

But you don't quite know what advice it is?---Yes.

20 Your mum responds less than a minute later, "You are right, thanks", do you see that?---Yes.

Then 30 seconds after that you've sent another message, haven't you?---Yes.

25 2.05.41 pm, 26 February 2019, read that out, please?---"Do not bring your mobile phone on 5 March."

"Do not bring your mobile phones" - plural - "on 5 March", was that a message you were sending to your mother and your sister?---Yes.

30

Were you telling your mother and sister not to bring their phones to their private hearing examinations on 5 March?---Yes.

35 Why? The answer won't be there, Mr Yong, on the screen, that's why I'm asking you. If it was on the screen, I wouldn't be asking you. Why?---Because I would assume the Inquiry will take their phone.

[3.00 pm]

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So you were trying to prevent the Inquiry from accessing their phones?---Yes.

Why? The answer's not on the screen. Why?---Because they are family members.

5 They are family members, so?---Don't want to get them into trouble.

You don't want to get them into trouble? Into trouble about what?---Whatever it is from the Inquiry.

10 What trouble would they be in about the matters that the Inquiry is investigating?---I can't predict what it is going to happen to them. I'm just worried about them.

15 But why? Did you think they had done something wrong?---No.

So what then would have been the problem with the Inquiry accessing their phones?---I'm over-worried.

20 Over-worried? But why?---I'm too protective to them.

Too protective to them? But if they had done nothing wrong there's no need for you to be too-protective of them, is there?---Yes.

25 So I'm going to ask the question again, was it because that might expose something that someone else had done wrong?---No.

No?---No.

30 Not you, for example?---No.

You see, you had become aware at this stage, hadn't you, that Mr Lim had taken his mobile phone to his private examination on this same day - - -?---I don't - - -

35 Let me finish - and it had been taken off him by the Inquiry?---No, I'm not aware.

Really? Really, Mr Yong?---Yes.

40 Because it was only a matter of two hours, or thereabouts, before you sent that message that Mr Lim had his phone taken from him by the Inquiry?---I really don't - I'm not aware.

Is that just a remarkable coincidence?---Yes. I'm not aware.

45 What made you think that the Inquiry might ask for your mother and sister's phones?---Just an assumption.

An assumption? Where had you got an assumption from?---Feeling.

A feeling, a vibe?---My feeling, yes.

You had a vibe that that might happen?---It's a feeling.

5

A feeling?---My feeling.

You just had a feeling?---A feeling, yes. I swear that I not aware that Willie's phone been taken away.

10

You swear? I remind you, you are already on oath. I will give you another opportunity, Mr Yong?---Willie didn't tell me when - - -

I've moved on from there. I've given you the opportunity of providing the honest answer as to why it was that you sent your mother and your sister that message at 2 o'clock on 26 February?---Is my personal feeling for them not to bring along.

15

I know that, that's the reason why you sent that text. The question's not going to go away. Why was it that you did that?---Just worry about them.

20

Worry about them, even though they had done nothing wrong?---Yes.

You see, this was months and months before the Inquiry asked you for your phone at the end of your evidence, yes?---Yes. Yes.

25

Your mother and sister had done nothing wrong?---Yes.

So they would have nothing to fear if their phones were examined by the Inquiry, right?---Yes.

30

The Inquiry is conducting an Inquiry into the City of Perth, yes?---Yes.

What role, if any, did your mother and sister have with the City of Perth?---Company directors.

35

Company directors, that's it, they were company directors?---In the company in the City of Perth.

Who had the most obvious connection to this Inquiry?---To me.

40

To you, yes. So what was it on their phones that you didn't want the Inquiry to look at?---Nothing.

Nothing?---Just their personal things.

45

Personal things?---All their personal things on their phone.

You think the Inquiry would be interested in looking at that?---No.

What do you think the Inquiry would be interested in looking at if the Inquiry was to have access to your mother's and sister's phones?---Anything that relate to me.

5

Yes, but you haven't done anything wrong, have you?---No.

Apart from the use of the Council dining room?---Yes.

10 So you never sent a WhatsApp message to your mother or your sister about your misuse of the dining room, have you?---No.

15 So what then was the concern that you had about your mother and your sister taking their phones to the private examinations?---As I say, I'm just worried about their personal privacy on that mobile phone.

Your message doesn't say that, does it?---No, it didn't.

20 So this was just a whim that you had at 2 o'clock on 26 February that the Inquiry might want access to their phones and that's why you sent that message?---Yes.

And you did not meet with Mr Lim after he had given his evidence on that day?---No.

25 Like you had the day before?---The day before I think I gave him that letter.

Yes, that's right, and he appeared at the Inquiry the following day?---I'm not aware of that.

30 Mr Yong, I can take you to the WhatsApp messages that you had with him late on the night of 25 February when you gave him the contact details for Legal Aid because he wanted a lawyer to appear with him?---Oh yeah.

35 When he was giving evidence the following day?---I sent him - I ask him to seek legal advice, yes.

40 So you knew that he was having to return to the Inquiry the next day, didn't you?---I don't know but he said - I asked him to seek legal advice but he says, "Is there any other way to look for a lawyer", I says, "You may try the Legal Aid first, if not, then you have to look for your own legal representation."

That's right, and that was in the context of him having to front up to the Inquiry the next day, wasn't it?---Yes.

45 Because he was going to produce the letter that you gave him, isn't that right?---Yes.

And you knew that's what he was going to do on this day of 26 February?---Yes, I knew he was going to present that letter.

5 And he'd finished his evidence before lunch on that day and he had handed over his phone to the Inquiry before lunch that day, okay?---Okay. I don't know what time, what date that he's meeting the Inquiry.

I've just told you?---Yes.

10 Within the space of two or three hours after that occurred, you're telling your mother and sister not to take their mobile phones when they give evidence?---No.

15 Either a message has got through to you from Mr Lim that's what's happened to him on that same day, or it is just a remarkable coincidence?---As I can recall, it's a coincidence.

You're saying it's a remarkable coincidence?---Yes. Willie didn't tell me that.

20 Though he had told you about his evidence the previous day, hadn't he?---Yes.

And you never told him on that occasion, "Stop, don't tell me anything more"?---Yes, but I eventually gave him the letter without advising him to seek legal advice but subsequently gave him the Legal Aid contact details.

25 These WhatsApp messages continue, Mr Yong, on 26 February?---Yes.

30 You probably didn't want to hear that but this is it. We go now to 1104, thank you, Madam Associate. There's a message at 2.06 pm from your sister, Angie saying, "Dinner's tonight at Fortune 5 at 6.30 pm?" I'm not too interested in that, although you respond, do you not, there, 24 seconds later with, "Yes sis", do you see that?---Yes.

35 Your mum though, bearing in mind that you had sent her the advice about not bringing her mobile phones at 2.05 pm, she sent a message through to the group, 2.07 pm, do you see that, "Please remind me again on Tuesday, please", do you see that?---Yes.

That wasn't in relation to tonight's dinner, was it?---Yes.

40 She's going you to remind her again not to take the phone, isn't that right?---Yes.

Mr Yong, you responded two minutes later after that, didn't you?---Yes.

45 Read out what you've said?---"Yes, no mobile phones, no wallet, nothing."

"Yes, no mobile phones, no wallet, nothing"; why? Why now, "No wallet, nothing"? Again, Mr Yong, the answer is not on the screen, otherwise I would

have taken you to it, I promise you. So why?---Just a reminder to them.

5 "Yes, no mobile phones, no wallet, nothing." Why were you now saying, "No wallet, nothing"? Mr Yong, answer is not there. The answer is not on the screen, I can promise you. It's not there. You are going to have to tell me why it was that you are now telling your mother and sister not to bring their wallets, in fact, not bring anything?---Just come clean.

10 I'm sorry?---Just come clean.

Coming clean?---And answer whatever's being asked.

15 Coming clean by not coming their mobile phones, wallet or anything? That's not coming clean, is it? It's the exact opposite, Mr Yong, isn't it?---I mean, don't have to bring anything, just walk, just come into the Inquiry.

Why are you saying that though? Mr Yong, the answer is not on that page, okay, so there's no point still looking at it?---I'll look at you.

20 Yes. Why no wallet?---Because they're going to go back to the office for lunch.

I'm sorry, they are going to go back to the office for lunch?---For lunch, so don't have to bring anything, just go back to the office and have a quick lunch and come back

25 [3.15 pm]

30 Is your explanation as to why you told your mother and your sister not to bring their wallets?---Yes, I prepare lunch for them to be ready in the office.

This is a week before?---I mean, for the event, if they come in, no mobile phones, wallet, for that purpose, I will prepare lunch for them.

35 So you're offering to prepare lunch for them seven days in advance. Mr Yong, I promise you, the answer is not there on the screen?---Are you talking about the same night or are you talking about - - -

40 I'm talking about 26 February. You're saying that you told them not to bring their wallet because you'll be providing them with a cut lunch at the office on 5 March, a week later, is that right?---If you're talking about the context of the dinner, I paid for that dinner.

No, I'm not talking - - -?---The first paragraph, "Tonight's dinner at Fortune 5."

45 I see, so "no wallet" meaning that's a reference to the dinner? It's not, is it? It's a reference to what they are to bring or not to bring when they gave their evidence?---So referring on the message from my mum above.

5 "Dinner's tonight at Fortune 5 at 6.30 pm", you've said, "Yes, sis", then your mum - this is what I said to you, your mum's message was, "Please remind me again on Tuesday, please." That's not in relation to the dinner at Fortune 5 at 6.30 pm that night, it's in relation to her evidence that she was giving on Tuesday, 5 March, after the long weekend?---Yes.

10 So that response that you've given is in relation to what she was to not bring on 5 March, isn't it?---Yes.

So, "No mobile phones, no wallet, nothing", is in relation to 5 March?---Yes.

15 And your evidence is that that message was sent because you were telling your mum and your sister to just come clean?---Come with nothing.

Were you trying to frustrate the Inquiry's investigations, Mr Yong, at that point?---Not at all.

20 Not at all?---Not at all. Not at all.

Telling your mum and your sister to bring nothing to their examinations wasn't an attempt to frustrate the Inquiry's investigations?---I would not - I was not aware what is required for them to bring. What my understanding is, is nothing to bring along.

25 Nothing to bring along that would help with the Inquiry's investigations?---No. My understanding is they were not told to bring along anything.

30 So why did you have to remind them of that? The answer is not there. Why did you have to remind them of that?---Just come in straight and answer question.

Sorry?---Just come in and answer question.

35 That's obvious. Why did you have to remind them though to bring nothing?---Because on top it says, "Please remind me again on Tuesday, please."

COMMISSIONER: Mr Yong, you saw the summons to your mother and to your sister, didn't you?---Yes, I did.

40 And you would know from having seen those summonses that they did not require your mother or your sister to bring their mobile phones, or indeed their wallets to the hearing; you know that, don't you?---Yes.

45 And you knew it then, didn't you?---Yes.

And that's why you're being asked this question. If the summons didn't have anything to say about bringing phones or wallets or anything for that matter, to the

hearing, why are you, in these messages telling your mother and your sister not to bring their mobile phones or their wallets, or anything to the hearing? I would like an answer to that question, please?---I shouldn't have and I gave the wrong advice.

5 I know you shouldn't have, you've told me that already?---And I gave the wrong advice.

Why did you give them that advice?---I gave them the wrong advice.

10 I know that, why did you give them the wrong advice?---Which is inappropriate for me to give them advice.

Yes, it was inappropriate because you are a lawyer and you were then and you should have known then it was inappropriate for you to give that kind of advice.

15 What I want to know is why you did it?---I'm concerned about their personal privacies.

Did you seriously think for one moment, Mr Yong, that I would be interested as the Inquirer in their personal information?---No.

20 Right. Now that we have established that, can you tell me, please, why you gave them that wrong advice?---I'm worried about their phone being confiscated.

25 Yes, and the reason why you worried about their phones being confiscated was what?---Like I said, I gave the wrong advice and they should have - - -

And the reason you were worried about their phones being confiscated, was what? Please look at me when you answer me?---I have not seen whatever in their mobile phones so I don't know what is in their mobile phones.

30 So you were worried, were you, that the Inquiry would ask for their mobile phones and see something on it that might be unhelpful to you?---No, nothing that will be unhelpful to me.

35 Then what were you worried about?---I - - -

Please look at me?---I never thought of the privacy issue that the Inquiry's not interested but I'm more concerned about their personal privacy but Commissioner has explained clearly that you are not interested in their personal - - -

40 You have told me that you didn't think I would be interested in that material, so I'm still troubled by your inability to answer this question: what was it that troubled you about the Inquiry looking at these phones, and I would like a straightforward answer, please?---In this - in there would be the communication on the WhatsApp.

45 What communication on the WhatsApp?---This communication like this, in the WhatsApp group.

And you can see how this communication, the one that you are being taken through at the moment is unhelpful to you, can't you?---Yes.

5 So I come back to my question, is the reason why you gave this advice to your sister and your mother because you were concerned that the Inquiry examining their phones might produce information unhelpful to you?---Yes.

Thank you. Mr Urquhart.

10

MR URQUHART: Thank you, sir.

So in that case, by giving that advice to your mother and sister, you were trying to frustrate the Inquiry's investigations, weren't you?---Yes.

15

Mr Yong, I asked you that question probably half an hour ago and your answer was, "No", so can I ask why it was that you gave an untruthful answer when I first asked you that precise same question?---The question that you asked?

20 That exact same question, exactly. I asked you were you trying to frustrate the Inquiry's investigations, this is about half an hour ago and your answer was, "No". Now I've asked you precisely the same question after you've answered questions from the Commissioner and your answer is now, "Yes." So the question I have for you is, why was it that you gave an untruthful answer when I first asked you that question?---Because I could not recall the messages and communication in the
25 WhatsApp group.

Mr Yong, I had taken you through all those messages before I asked you that question, so could you please give us a truthful reason as to why you gave an
30 untruthful response to that question when I first asked you?---Because I'm worried about information in their mobile phone would detriment myself.

It's got nothing to do with that, it's got to do with the reasons why it was that you sent that email or that message to them and I asked you were you trying to frustrate
35 the Inquiry's investigations. You gave an untruthful answer to that question. It's an untruthful answer because you've acknowledged it was untruthful and I just want to know, after imploring witnesses to tell the truth at these public hearings, with you not four or five metres away from me during my opening address, why you have given at least one untruthful answer?---I will try my best to give you the
40 truth and telling the truth.

Mr Yong, weren't you required to do that once you had taken your oath?---I shouldn't have obstruct the Inquiry by sending the messages and I acknowledge is inappropriate and it's not right.

45

But Mr Yong, you are still obstructing the Inquiry by giving an untruthful answer to a question that I asked of you?---Yes, after seeing the messages, I acknowledge

my mistake.

Could I ask you to please honour your oath from now on?---Yes, sir.

5 Whether or not an untruthful answer is unhelpful to you?---Yes. Yes, sir.

I just want to take you to one final WhatsApp message there from your brother and this is after your sister has said, "Okay" to your message, "Yes, no mobile phones, no wallet, nothing." Incidentally, did you remind your mother again not to bring
10 her mobile phone or wallet or anything between that WhatsApp message you sent her, and then 5 March?---I can't recall what's in there much, maybe you can refresh memory by sharing the messages.

Your brother at 2.27 pm on 26 February, you see that about three-quarters of the
15 way down, sending again a WhatsApp message to the group. I gather the group is you, your sister, your brother and your mother, yes?---Yes.

Your father?---Maybe not in the group.

20 He's not in the group. "Tried to reply emails to the Inquiry over here." Is your brother referring to "over here" being his and your law firm?---"Over here" means in the group.

In the group?---In the WhatsApp group
25 [3.30 pm]

"Tried to reply emails to the Inquiry over here", meaning?---My understanding is
30 reply in this group, in this WhatsApp group.

So everybody else in the WhatsApp group is aware of the replies to emails from the Inquiry?---Yes.

35 Am I right in saying, you never said to your brother, "No, this has got to stop. I should not be involved in this because the Inquiry, insofar as our family is concerned, is concentrating on me"?---Yes.

Did you say that to your brother?---I did not.

40 Why not?---Like I say, is mix between legal and family members, so I didn't take into account of the legal side. I'm saying to my family members as a brother and son to my mum and sister.

45 It's a simple answer, you wanted to be kept in the loop? Do you understand what that phrase means?---Yes.

Isn't that the simple answer?---Yes.

On the subject matter of being kept in the loop, what discussions did you have with your mum after she gave evidence on 5 March? Do you remember you've said now you're going to give truthful answers, Mr Yong?---What was discussed after?
5

Yes, what did your mum discuss with you after she gave her evidence on 5 March?---Corporate nominees.

Corporate nominees?---Nomination.
10

Nomination forms, is that right?---Nomination forms.

So this is evidence that she had already given at the Inquiry, is that right?---Yes.

15 She was telling you what she had said?---She said is about corporate nomination forms.

So she was telling you what she had said?---Yes.

20 At her private hearing?---Correct.

Is that because you asked her?---No.

She volunteered this to you?---She came back really stressed and she said she was cold and no lunch and she's very stressed and had back pain, so I was very concerned about her and she's over the age of 70 years old.

25

So you might have been concerned about her physical well-being but what did that have to do with the answers that she had given at a confidential private hearing?---So I ask her, I worry about her and she said - she told me that out of her own voluntary.
30

And you did not at any point tell her, "Stop, mum, you should not and you cannot be saying these things to me"?---I did not stop her.
35

Because you wanted to find out from her what it was she was asked about, isn't that right?---Yes, I wanted to find out why she's been so stressful.

You wanted to find out what evidence she had given as well, didn't you?---Yes.
40

So she told you about corporate entities and nomination forms, didn't she?---Yes.

Did she tell you about what companies she was asked questions about regarding the corporate nominations?---No.
45

Didn't mention that it was to do with the family companies?---No.

Did you ask her about, or did she tell you that she was questioned about the complaints that she and you and your brother-in-law, and a Mr Cheng - - -?
---About the letter, yes.

5 She told you about that?---About that letter which has been resolved, yes.

Did you ask her about that?---No, I did not ask her.

But she volunteered that to you, did she?---She did.

10

This is all information that you should not be getting, isn't it?---Yes, but - - -

But what?---At that point in time I was worried about her health and I just wanted to make her feel comfortable and let her speak out.

15

And it didn't cross your mind for one minute to say, "Look, mum, let's just take care of your physical well-being but we will do that without you telling me about your evidence"?---Yes, I did not think of that.

20 Because you wanted to find out as much as you could about what evidence she had given and what questions had been asked of her, isn't that right?---Yes.

Then after your sister gave evidence, am I right in saying she also spoke to you about what she was asked and what evidence she gave?---Yes, she told.

25

What did she tell you?---About the lease.

Sorry?---About the lease.

30 About the lease?---The lease agreement.

The lease agreement? Which lease agreement was that?---The lease agreement for Beau Geste.

35 Geste or Beau Geste?---Beau Geste.

Beau Geste, yes. What else?---That's the issue for that matter.

Yes?---For Beau Geste matter.

40

What else? What else?---I can recall this Beau Geste lease agreement.

You can remember that clearly, can you?---Yes.

45 Is there any particular reason for that?---I can recall that clearly because she says she's worried that the lease was not stamped and I said, "Not too much you can do."

So the Inquiry asked her to produce the lease agreement for Beau Geste, didn't it?---Yes.

5 And you were aware of that, weren't you?---After she told me, yes.

That she had to go back to the Inquiry the following day with the lease?---Yes.

10 That Beau Geste entered into that entitled it to nominate, for two nominees to be placed on the owners occupier roll?---Yes.

So she's discussing her evidence of with you part way through her evidence before a private hearing?---She did. I said, "There's not much you can do, if that's the case, that's the case."

15

Mr Yong, there's a lot you can do. A lot you can do is, "Stop right there, sis. You go and get your own legal advice, I can't talk to you about this"; that's what you're supposed to do, isn't it?---Yes.

20 Mr Yong, when you qualified to be a lawyer over here, you had to attend some courses, did you not?---Yes.

Were you taught a course on ethics?---Yes.

25 Quite aside from ethics, you knew, did you not, that by your sister talking to you about the evidence she had given, she could be committing an offence; you were aware of that, weren't you?---Yes.

30 Yet you continued to allow her, and indeed your mother, to talk to you about their evidence?---Yes.

And you did that because you wanted to obtain as much information as you could about the Inquiry's investigations into your behaviour as a Councillor, isn't that right?---Yes.

35

Do you remember your sister producing a lease agreement to the Inquiry the next day?---No.

No?---No.

40

Were you living in the same house as your sister at this stage?---Yes.

It was at your parents' address, wasn't it?---Yes.

45 What was done in order to find a lease agreement that the Inquiry had asked about?---Sorry, your question was?

What was done - you knew, you've already told us that your sister said to you after her evidence on the first day that, "The Inquiry wants this lease agreement" that Beau Geste had, which meant that that company was entitled to get two votes for the City of Perth electoral roll?---Yes.

5

So did you help your sister with that lease?---No.

No?---I'm not aware.

10 You're not aware that she produced one to the Inquiry the next day?---I'm not aware of that.

You're not aware of that?---No.

15 Even though you knew, from what she had said to you that she was required to produce a lease?---Yes.

Was there ever a lease agreement for Beau Geste?---Yes.

20 Are you sure about that?---Beau Geste, my understanding is that company's been deregistered so I don't know the duration.

Just bear with me, Commissioner, for one moment.

25 COMMISSIONER: Of course.

MR URQUHART: This was supposed to be a lease agreement between your mother's company, Lex Legal Management Trust, was it not, and Beau Geste Pty Ltd, yes?---I think you would have one but I haven't seen it.

30

I know you haven't and we might get to that in a moment but that is right, as you understood it, your sister had to produce the lease agreement between your mother's company and her company to show that Beau Geste was entitled to have two nominees?---Yes.

35

Because you knew, didn't you, a company, in order to get two nominees on the City of Perth electoral roll, either had to own property within the City of Perth or lease property from the City of Perth, or have some sort of interest in that regard?---Yes.

40

That was your understanding, wasn't it?---Yes

[3.45 pm]

45

Did you and your brother assist your mother when she was drawing up lease agreements?---No.

For her properties. No?---No.

5

Are you sure about that?---Sure.

What about the lease agreement for your law firm and your mum's company, wasn't that drafted by your brother?---The lease agreement between Lex Legal Management and Lex Legal Pty Ltd?

10

Yes, that lease, wasn't that drawn up by your brother?---Yes.

Madam Associate, I wonder if we could get up, please, 8.0989. Sir, this is - I would like to give the Inquiry a TRIM number but I don't seem to have it.

15

COMMISSIONER: We will sort that out later.

MR URQUHART: Yes.

20

There we go, 8.0989, do you see that?---Yes.

"This lease is made this first day of September 2009 by and between Lex Legal Management Trust Pty Ltd and Beau Geste Pty Ltd", do you see that? Then it talks about a lease. Paragraph 2 there, "Three years commencing 1 September 2009 and ending 31 August 2012", do you see that?---Yes.

25

Over the page, Madam Associate, 0990, do you see that, "Signed this first day of September 2009", signed by, it would seem, your sister's signature? Is that your sister's signature on the left?---It looks like her signature.

30

And then your mum's signature on the right?---Yes.

That document wasn't drawn up by either you or your brother, was it?---No.

35

You and your brother are experienced, through lawyers, of drawing up lease agreements, aren't you?---Yes, we do.

This lease agreement is fairly amateur-ish, would you agree with that?---Two pages, yes.

40

And for example, it hasn't been witnessed either, did you notice that?---Yes, no witness.

You understand that leases ought to be witnessed by an independent person?---Yes.

45

And this one hadn't been?---No witness.

No. Mr Yong, can you please tell us when that lease agreement was typed up?---I did not prepare that, I don't know when it was typed up.

5

No? It's dated the first day of September 2009, you see that on the second page?---Yes.

10 Isn't it a case of it being prepared a long, long, long time after that, like early March of this year?---I'm not aware of this lease agreement.

Were you aware of it being typed up - - -?---No.

15 Let me finish the question - some time between when your sister finished giving evidence on 5 March to when she returned to the Inquiry's witness box on 6 March, was it prepared during that period?---I'm not aware of when this was prepared.

20 Is that a truthful answer, Mr Yong?---Yes. We, Lex Legal, me and my brother, about not prepare this.

I know that, I've heard you say that. I'm talking about when, to your knowledge, was that document prepared?---I'm not aware.

25 Let me ask you this question then: when you were talking to your sister about the fact that the Inquiry - the answer's not there, you can look at me now - when the Inquiry wanted a copy of that lease between your mum's company and your sister's company, when you were talking to her about that or when she was talking to you about that and she said, "The Inquiry wants a lease", what did you say to
30 her?---Then they have to produce the lease.

They have to produce the lease, yes. So what happened then?---Then she had to go and find the lease.

35 Where did she look, do you know?---No, I don't.

You don't know? You were both together at the same house that you lived in?---Yes.

40 On this particular occasion, weren't you?---Yes.

Was your brother there?---No.

Your mother?---Was at the same house.

45

Yes, and she was there. Your brother-in-law, was he there as well?---No.

So was your father there?---Around that time, yes, he's around.

So when you were discussing this lease issue with your sister, was your mum present as well?---No.

5

No?---No, same house but not present.

Just you and your sister. So she's talking to you about this?---Yes.

10 You say to her she's going to have to find the lease. So how then did it come about that this lease materialised?---I asked her to go and find it and produce it.

You told her to go and find it?---Yes.

15 And produce it?---Because she said the Commissioner wants a copy.

Yes, that's right. So where did she go to find it?---In the house, in the room somewhere.

20 In the house, in the room?---Yes.

What room?---She has the study desk, she put all the files, everything in that shelf with computers, desk.

25 So there's a computer there?---There was a desktop.

Desktop computer in there. Was there a printer in there?---Yes.

A printer in there as well. So did you help your sister look for this lease?---No.

30

Why not?---I didn't help her.

Yes, but why not?---Because I told her that she need to produce, when she find.

35 And it's a lease from 10 years ago?---Yes.

Did you go and help her look for it?---No.

How long did it take before she found it?---I did not follow her to find that file.

40

Did she come and tell you that she had found it?---She didn't tell me.

She didn't tell you that she had found it?---Because that was at night - I believe that was at night and I go to do my own things, shower and get ready to do my own things.

45

But did you ask her the next morning, say, "Sis, did you find that lease"?---No,

because I woke up early and she hasn't woke up yet.

She hadn't woken up?---Yes.

5 So when did you first find out that she had found the lease and was able to produce it to the Inquiry?---It would have been day after - the following day or the day after that.

The following day or the day after that?---Yes.

10

Did you ask her, "Where did you find it, sis"?---Yes.

What did she say?---She said she found it in the folder.

15 In the folder?---Folder, yes.

What sort of folder, did she say?---I didn't ask specifically what kind of folder but she said she found it. I said, "Good."

20 And you weren't interested as to whether she found it before she went off to give evidence on that second day, 6 March?---The second day, I left early to work before, like 7.30.

25 You didn't text her or call her or anything like that?---I can't recall if I texted her or called her.

Mr Yong, was that lease really drawn up and signed on or about the first day of September 2009?---Looking at the date, it's about that time.

30 Or was it in fact drawn up and signed many, many, many years later, in early March of 2019?---No, I did not prepare this. I have no recollection of who prepared this and when they sign it.

35 Because I would suggest to you, Mr Yong, that if your sister and mother were entering into a legal, binding, commercial lease agreement back in 2009, they would have asked either you or your brother to draw it up?---Yes.

They would have?---They would have.

40 But they clearly haven't here, have they? You hadn't prepared this lease?---Yes.

And you wouldn't prepare a lease like this, would you?---No.

Nor would your brother, would he?---No.

45

So the question then is, why is it that this lease has been prepared in the way it has been and then signed, supposedly, in 2009 when you and your brother would have

been able to draw up a properly termed and properly executed lease?---My understanding, that would be because it's a related transaction, they just wanted to have a simple agreement, mutual understanding, signed between the two parties.

5 Where did you get that understanding from?---Sorry?

Where did you get that understanding from?---My assumption.

10 Your assumption? Mr Yong, my assumption - - -?---Because if they hadn't instructed us, we did not prepare it.

So you wouldn't have? You wouldn't have prepared something like that, would you?---For a formal lease.

15 It's woefully inadequate, isn't it?---Yes, you're right.

So your assumption is that they just wanted something in writing to verify this lease?---To be signed between the two company, yes.

20 I think you might be on the right money there, that this was drawn up to verify that there was a lease in place. However, this document was drawn up this year, wasn't it, Mr Yong, and not in 2009?---No. I'm not aware of who again prepared this.

25 I know you didn't prepare it but did your sister and mother prepare it this year, not in 2009? Isn't that the case?---No.

Your mother and/or your sister did it?---No.

30 Because the Inquiry wanted evidence of a lease, a supposed lease between the two companies? No?---No.

You're sure about that?---I'm sure about that.

35 Madam Associate, you can take that down, thank you. Mr Yong, you, as we have already established, contested the October 2013 City of Perth elections and you were elected for a four year term, is that right?---That's right.

You ran again in 2017 but you were defeated?---That's right.

40 Though 2013 was the first time you ran as a candidate, I'm right in saying, aren't I, that you had thought about running in the October 2011 City of Perth elections?---In October 2011, I was not ready at that time.

Are you sure about that?---I'm sure I'm not ready yet.

45

Are you sure you did not consider running in the 2011 elections?---Yes

[4.00 pm]

In 2011 you knew an ex-Councillor named Michael Sutherland, didn't you?--- Yes, I know him.

5

In 2011, you knew him?---Yes.

You were both lawyers?---Yes.

10 And you and he are heavily involved with the Chinese community, aren't you?---Yes.

Both you and him, yes?---Yes.

15 By 2011 he was a State Member of Parliament, wasn't he?---2000-and?

Sorry, 2011, he was a State member of parliament. He was no longer a Councillor with the City of Perth?---I can't remember when he was elected. Yes, most likely, if you say that's the date.

20

He's a member of the Liberal Party?---Yes, he is.

Or he was back then at least, and so were you?---Yes.

25 Mr Yong, 2011, I want to suggest to you, you had discussed with him the prospect of you running for the City of Perth elections to be held later that year?---In 2011?

Yes?---I can't recall that we have discussed that.

30 He advised you that if you contested the 2011 elections, you wouldn't have a good chance of winning?---Wouldn't have a good chance?

Wouldn't have?---Why?

35 Because there were already going to be two Chinese candidates. Don't you remember him telling you this?---So many years ago, could have but I didn't take it seriously.

And those two Chinese candidates, being Councillor Sandra Liu?---Yes.

40

And Lily Chen?---Correct.

And you agreed not to contest that election but instead, you would wait until 2013, isn't that the case?---I waited until 2013 when I was ready.

45

If it was Mr Sutherland's evidence to this Inquiry that you had discussed with him about running in 2011, that would be wrong?---Around 2011?

Yes?---Around 2011 or 12 I had met with a few people around - Councillors, including James Limnios, Lily Chen and including Michael Sutherland as well.

5 Mr Sutherland, as I say to you, was not a Councillor?---He was a State member, yes.

So is it the case then that you may well have discussed it with him, about running in 2011?---2011 I met Sandra Liu and Lily Chen.

10

I'm just staying with your discussions I'm suggesting you had with Mr Sutherland in 2011 about running in that election that year?---2011? I can't recall that discussion but the result would be I'm not ready in 2011.

15 Do you remember Mr Sutherland pointing out to you that 2011 wouldn't be a good year to run because of the other candidates, namely Councillor Liu and Ms Chen who I think was running for the first time? If you can't remember or you don't know then that's fine?---I can't remember that conversation.

20 Your family has used post office box addresses for their various businesses, haven't they?---Yes.

So since 2009 your law firm has had a post office box address, hasn't it?---Yes.

25 What post office box address is that?---PO Box 6116.

And the rest of it?---Personal one, PO Box 862.

But post office box 6116?---East Perth.

30

East Perth, WA, 6892?---6892.

And you've had a key for that post office box, haven't you?---Two keys.

35 Two keys, for the past 10 years?---Each box have two keys.

I'm just staying with post office box 6116?---Correct.

It's just got the one post office box, hasn't it?---One post office box with two keys.

40

With two keys, yes. You've got a key and your brother's got a key?---One key is for the legal firm, one key is for the - my parents' company, Bell Vista.

45 How many post office boxes have you got in East Perth?---One, but two keys, using the same box.

Using the same box, right. So the same key - you've got two keys that are exactly

the same which will open that post office box?---Correct.

You and your brother have one key?---Yes.

5 And your mother has another key?---That's right.

There is another post office box that your family has used, isn't there?---Yes.

What's that one?---PO Box 862, Victoria Park.

10

So post office box 862 Victoria Park, WA 6979?---6979, correct.

And that post office box your family has had since at least 2009 as well, hasn't it?---About that time, yes.

15

And that post office box has also been referred to or used by your law firm, hasn't it?---862? No.

No?---No.

20

Are you sure about that?---That's for - to cover personal mails.

It's to cover personal mail, is it?---Mainly cover personal mail and bills.

25 Personal mail for whom?---For the family.

For the family, so you, your brother, your sister and your parents?---Yes.

Is that right?---Yes.

30

I just want to show you an historical company extract for Lex Legal Pty Ltd. Madam Associate, it's at 8.0259 and 8.0260 and again, sir, I haven't got a TRIM number for this document unfortunately.

35 COMMISSIONER: That's all right.

MR URQUHART: There's an historical company extract for Lex Legal Pty Ltd and I just want to go over to the second page, 260, thank you, Madam Associate. Right there at the bottom of the page we see, "Contact address for ASIC use only", and you see there that the address given is PO Box 682, Victoria Park, WA, 6979, do you see that?---Yes.

40

At least insofar as the company extract details are concerned, that particular post office box is recorded, do you see that?---Yes.

45

Indeed, you can have a look at the rest of that while we are on that page. Just a little bit further up we can see that the shareholder details, which is yourself and

your brother, you've given the post office box 6116, East Perth number, haven't you?---Yes.

5 Thank you, Madam Associate. You can take that down. Is that post office box 862, Victoria Park, also used by the Yong Family Super Pty Ltd company?---I am not sure but most likely the current postal box address has updated to 6116.

To 6?---116.

10 But there might have been a time when the Yong Family Super Pty Ltd company was also using that post office box?---Yes, you can confirm.

You had a key to that Victoria Park post office box, didn't you?---I do.

15 Is there another key to that post office box?---Yes.

Who has that?---One in Lex Legal office, one at the moment I believe should be with Bell Vista.

20 Bell Vista?---I can confirm whether they still have that key.

But either way, you certainly had access to one key?---Yes.

25 And the person or persons who had access to the other key were members of your immediate family?---Yes.

And that's the situation with both post office box addresses, isn't it?---I'm not sure about the second, 862.

30 You're not sure about the second one but the 6116, you've got one?---Two keys.

And another family member has one as well?---Yes.

35 I will just ask you a few more questions, if I can, Mr Yong, and then we will call it a day. Do you wish to continue just for a few more minutes or would you like to stop for the day? It's entirely up to you?---Sure.

Would you like to stop or continue for a little bit long?---Continue, I'm okay.

40 Thank you. I just want to ask you some questions as to your understanding of who's entitled to vote at City of Perth elections?---My understanding of?

Your understanding, okay. Am I right, is it your understanding you can have residents within the City of Perth who can vote?---Yes.

45

And they are on what's called the residents roll?---Yes.

And then you have - we have already discussed this briefly - an owner and occupiers roll which will include corporate entities which either own or lease property within the City of Perth, is that your understanding?---Yes, two sets of lists, yes.

5

And corporate entities can nominate individuals to vote, yes?---Yes.

And a corporate entity is entitled to two nominees?---Yes.

10 Who are then placed on the owners and occupiers roll?---Yes.

So you've got two rolls, residents roll, owners and occupiers roll?---Yes.

15 Is your understanding that anyone can be a nominee of a corporate entity, provided they are a registered voter for the State elections?---Yes.

But a corporate entity, no matter how many properties it might own or lease in the City, is only entitled to two nominees, is that right?---For each company, two nominees, yes.

20

And an individual is only entitled to one vote?---That is right.

So you can't be a company nominee and have a vote and then also have a vote if you happen to live within the City of Perth as a resident?---Yes.

25

And a corporate nominee, that is a company's nominee, does not have to have any connection to the company, is that right?---Yes.

30 Or indeed, have to live within the City of Perth. They can live outside the City of Perth as well, can't they?---Are you talking about the company nominees?

Yes, company nominees?---They have to live outside the City of Perth.

35 They have to live outside, yes?---If not, they are not eligible to be nominated.

Because they would be on the residents roll?---Correct.

40 And the nominee for a company has to be nominated by an authorised person of the company, is that your understanding?---Yes.

And that nomination is done by completing a document called, initially when you were first elected, an application to register a corporate nominee, do you remember - - -?---That sounds right, yes.

45 And then it was changed to the title Form 2, modified enrolment eligibility for corporate nominees, and that was done in 2016, does that accord with your recollection?---Sounds about right

[4.15 pm]

And this form, that Form 2, is a green coloured form, isn't it?---Yes.

5

Whereas if a resident wants to enrol or an individual wants to enrol to vote, it's a yellow coloured form, is that right?---Yes. It can be in no colour as well, if you print it from the website.

10 If you printed it off, it would just be white in colour?---Yes.

But if you get a hard copy of it, it's yellow?---Yes.

I suppose that's the same for the green form as well?---For the green.

15

Thank you. These applications to nominator have nominees for a company, they have to be sent to the City before a cut-off date prior to an election, is that your understanding?---Yes.

20 Mr Yong, do nominee voters from companies make up a sizeable portion of votes?---My understanding is lower than the residents vote.

Lower, but not by much?---A lot lower.

25 A lot lower?---M'mm.

Do Councillors - I'm just talking about Councillors generally - go out to encourage companies who might own or lease property within the City to nominate and have nominees placed on the electoral roll?---Both Councillors and the Council.

30

Both Councillors and the Council?---Yes.

And where a Councillor is doing that as an individual, would I be right in saying that ideally they would want nominees who are going to vote for him or her?---Normally, with your support and sign them up.

35

Sorry?---Normally they would want someone who can support them.

And voting is not compulsory?---Voting is not compulsory.

40

And in fact, it's not compulsory for a company or an individual to enrol?---Not compulsory.

45 Because voting is not compulsory, can there generally be a very small turnout of voters?---Yes.

I think I cited in my opening that the 2013 election that you contested, they had a

turnout of 27 per cent, does that sound about right?---That sounds about right.

5 So therefore a potential vote, would you agree with me, can assume more importance than, say, a vote in a State or Federal election?---Which election is more important?

10 A potential vote in a Local Government election can be more important because proportionately you don't need so many votes to get in as a Councillor as you would if you were a member of State or Federal Parliament?---Most people are not too interested in Local Government elections.

Yes, and you're aware State and Federal Government, it's compulsory to vote?---Yes.

15 So it gets a larger turnout?---In a way, yes, and most people are interested in State and Federal election than Local Government election.

20 Yes, that's right. So to get a vote in Local Government can assume more importance than just a vote in, say, a Federal seat?---Yes.

Just one final matter, Mr Yong, before we will call it a day: what is your understanding as to who can run as a candidate for the City of Perth?---Residents in the City of Perth.

25 If you're not a resident?---You have a business.

You have a business or a business that owns property within the City of Perth?---Or you have a legal instrument, leases.

30 Or a legal instrument?---Yes.

Such as a lease?---Such as lease.

35 Is it your understanding that for somebody to be eligible for a candidate, they would have to be individually named on a lease?---I'm not sure about that. Individual - I'm not too sure about company nominees.

40 Yes, company nominees, and you understand a company nominee cannot be a candidate for an election?---My understanding.

Yes?---Yes.

45 You either have to be a resident or someone who owns property within the City of Perth or someone who has a lease in their name?---Yes.

With respect to property within the City of Perth?---Yes.

Is that right?---My understanding, yes.

Thank you, Mr Yong. It might be an appropriate time to adjourn for the day.

5 COMMISSIONER: Thank you. What time would you like to start tomorrow?

MR URQUHART: Could we have a 9.30 start, if that's convenient for the interested parties here? That would be my preference.

10 COMMISSIONER: Ms Stanton, is that convenient to you?

MS STANTON: Yes, Commissioner, that's convenient.

MR SKINNER: Yes, I have an 8.30 appointment but I will change it, sir.

15 COMMISSIONER: Thank you, very much.

MR SKINNER: Thank you, sir.

20 COMMISSIONER: Very well, I will adjourn until 9.30 tomorrow morning.

WITNESS WITHDREW

**AT 4.21 PM THE MATTER WAS ADJOURNED
UNTIL TUESDAY, 6 AUGUST 2019**

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