

# **EPIQ AUSTRALIA PTY LTD**

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**INQUIRY INTO THE CITY OF PERTH**

**PUBLIC HEARING - DAY 86**

**TUESDAY, 13 AUGUST 2019**

**INQUIRY PANEL:**

**COMMISSIONER ANTHONY (TONY) POWER**

**COUNSEL ASSISTING:**

**MR PHILIP URQUHART**

**COUNSEL APPEARING:**

**MR KEITH THOMAS, with MS CHRISTINE OREO  
( Ms Lily CHEN)**

.13/08/2019

HEARING COMMENCED AT 10.01 AM:

5 COMMISSIONER: I will begin with an Acknowledgment of Country. The Inquiry into the City of Perth acknowledges the traditional custodians of the land on which it is 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 Mr Urquhart.

MR URQUHART: Thank you very much, Commissioner.

**MS Lily CHEN, recalled on former affirmation:**

15

Ms Chen, do you recall where we left off yesterday?---With Anthony Tran.

Yes. Do you recall me showing you an email that Mr Tran sent to you on 12 May 2016 at your private hearing examination last month?---Yes.

20

Do you still maintain the evidence that you gave at that private hearing regarding what that meeting was all about?---Yes.

You don't wish to change or amend or clarify your evidence in any way?---No.

25

This is your opportunity to do so?---Thank you.

You're not taking up that opportunity?---No.

30

You're speaking very softly, Ms Chen. The transcribers, no doubt, will send a message very shortly to say they cannot hear you. So would you please move your chair forward, and speak nice and loudly and clearly into those microphones. They do not amplify your voice. Do you recall me saying to you yesterday that the Inquiry has heard from Mr Tran regarding what he said that meeting was all about?---Yes.

35

You do remember that?---Yes.

Do you still wish to maintain the version that you gave at your private hearing examination?---Yes.

40

And that is, in short, that all he was asking you to do was to make some introductions to parties?---Yes.

45

And that you were not to receive, or there was no arrangement made for you to receive a fee should these projects go ahead?---If goes ahead, there is an introduction fee. After the private hearing I read the email again. In the body -

last paragraph of the email.

Yes?---Not before.

5 I drew that sentence to your attention at the private hearing?---I didn't pay attention. When I asked him if he wanted me to arrange a meeting with the Minister, please send me an email in writing and then he did.

10 Stay there. When you were talking about the last sentence in the email, are you referring to the email I showed you at the private hearing examination?---Yes.

Which refers to "an introduction fee must be paid by the lendeer"?---Correct.

15 You were, if a project went ahead, to get some of that introduction fee yourself, weren't you?---Correct.

Why did you not say that at the private hearing examination last month?---I didn't read the email properly when he sent me the email at the time in 2015 or 2016.

20 You didn't need to read the email properly at last month's private hearing examination because I read it out for you?---I mean before the private hearing, and also I didn't read it carefully.

25 So you do now want to clarify the evidence you gave at the private hearing examination of yours last month, do you?---Yes.

Why didn't you take that opportunity up when I asked you that question five minutes ago?---After the private hearing - - -

30 No, just five minutes ago. Why didn't you say, "Yes, I would like to clarify that with you, Mr Urquhart. I was to receive part of this introduction fee that Mr Tran mentions in his email"; why didn't you do that then?---I'm sorry.

35 You may be but I want to know why didn't you?---I thought you ask me whether I was not - whether I'm his business partner or not. That's yesterday, before you finishing your questions, and that was left on my mind.

40 That was yesterday, and you said, "No." Now you've thought about it overnight and you've now thought to yourself, "Well, yes, I better tell the Commission the truth about this arrangement and yes, he and I were to be business partners in relation to this matter"; is that what you thought overnight?---Not business partner per se, however, yes, there was an introduction fee mentioned in the email, the body of the email.

45 Be that as it may, why didn't you clarify this when I asked you to do that five minutes ago?---My misunderstanding of your question, sorry.

What part of that question did you misunderstand?---Mix the business partner as we - I usually thought - - -

5 I didn't mention anything about business partner when I asked you whether you wanted to clarify any of your evidence that you gave at your private hearing examination, and you said, "No." You are now clarifying, when I press you further, about evidence that you gave at the private hearing examination. I just want to know why it was that you didn't come up with your clarification first time around, this morning?---My misunderstanding, counsel.

10 But there was no misunderstanding to the question. It was very straightforward?---Sorry.

15 You may say "sorry", but I now want to know why. Are you maintaining it's because you misunderstood my question?---Yes, counsel.

So you gave evidence at the private hearing examination that was not accurate?---That bit, yes.

20 Would that be fair to say?---Yes.

Were you deliberately trying not to be accurate?---No, counsel.

25 You see, Ms Chen, now that you've admitted the true state of affairs and that you were to be paid a fee if these projects got up off the ground, unfortunately for you, your evidence has been yesterday, and at the private hearing examination that you were acting in your capacity as a City of Perth Councillor. Why did you have an arrangement with Mr Tran to accept fees for work that he was doing with you when you were acting in your role as a City of Perth Councillor?---It was his offer, counsel.

30 Yes, I know that but I want to know why it is that you thought you would be able to accept a fee from him when you're acting in your role as a City of Perth Councillor?---Should not.

35 Yes, I know that you should not, but why did you? It's not a rhetorical question, I want an answer: why did you?---I didn't.

40 I know you didn't and I want to know why?---Couldn't answer.

What do you mean you couldn't answer? Of course you can answer. Why? Why were you doing that? You know that's entirely inappropriate, don't you?---Yes.

45 It's a breach of the Local Government Act and its Regulations, isn't it?---Yes.

So, why did you do it?

MR THOMAS: Could I just be heard on that?

COMMISSIONER: Is there an objection?

5 MR THOMAS: It is just - - -

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

10 MR THOMAS: Yes, sir. It's just an objection to the way that last question was put.

COMMISSIONER: There was nothing wrong with the last question that was being put, Mr Thomas. If that's the form of the objection, I'm not going to agree to that. Please continue, Mr Urquhart.

15 MR URQUHART: Sorry, sir?

COMMISSIONER: Please continue.

20 MR URQUHART: Yes.

Why did you do that?---I did not think about it.

25 What do you mean you didn't think about it?---Anyone ask me to help, I would do it.

30 But you weren't helping - this was your evidence that you gave at the private hearing examination. All you were doing is just helping the good ratepayers of the City of Perth but now you've told us the truth and said what you were doing was helping yourself to an introduction fee. So why were you playing the part of a City of Perth Councillor with respect to a private business deal that you had made with Mr Tran?---My intention was to help him.

35 Yes, that might be so but that's not the question?---I can't answer you.

Of course you can, because this was you doing this, so of course you can answer. Why?---I don't know how to answer you, counsel.

40 Just answer with the truth, because you weren't giving truthful answers to this matter at your private hearing, so now we want truthful answers at this public hearing. Why were you doing this in your role as a City of Perth Councillor when you knew you weren't supposed to?---I don't know.

45 Who would know then, if you don't? Who would know? Who can I ask if I can't ask you?---I said to you, counsel, all my good intentions to help him.

I'm not interested in your good intentions. I want to know if I can't ask you this

question, who can I ask?---No idea.

Yes. Only you can give this answer, isn't that right?---That's correct.

5 So your answer is, "I don't know"?---It's against my intention.

It was against your intention?---Yes.

10 Explain what you mean by that?---My intention - - -

And don't tell me that your intention was to help him?---Yes.

You were going to tell me that, were you?---Yes.

15 It's not relevant. You see, you can help him but not take an introduction fee?---That email is not only addressed to myself, he sent it to other people as well.

So what?---So it means the email constructed as such, everyone receive that email and there is an introduction fee.

20 Did other City of Perth Councillors get this email?---I'm not aware of

[10.15 am]

25 I don't think there is any evidence of that whatsoever, so it's irrelevant whether other people got this email or not. I would just like to know why it was that you thought you could, in your role as a City of Perth Councillor, accept a fee from a person you had entered into a partnership with?---I should not.

30 I know you should not have, I want to know why?---I directly forwarded it to the Minister's office.

I don't care about that. We will get to that?---If I - - -

35 I'm asking you about this. I want to know the real reason why you thought it was appropriate or why you thought you could do this? Why did you think you could do this?---I don't think I should do it.

40 I want to know why you thought you could?---I didn't think I could.

But you did, so therefore you must have thought you could, because you did, so why?---I didn't have reasons.

45 Okay. What split were you to get of any introduction fee?---I didn't know. I didn't discuss.

Come on, that's not a truthful answer, is it, Ms Chen?---That is the truth on my

part.

I will ask you again: what was the percentage of the introduction fee you were going to get, because you must have discussed that?---I really didn't know.

5

Come on. You were going to undertake this work on behalf of Mr Tran without knowing what sort of fee you would get? No, that's not right, is it?---He didn't mention to me.

10 That's not how you operate, is it?---I didn't - I didn't ask. He didn't offer me.

But he offered you a part of this introduction fee, didn't he?---Didn't specify, counsel.

15 He did offer you a part of this introduction fee, didn't he? I thought we had already established that?---Yes.

Yes, and then you asked him what sort of split you would get, or he told you, one or the other; what was it?---I didn't ask.

20

Did you ask him what sort of percentage fee he would expect to get?---No.

Why not?---I said to you earlier, I didn't pay attention to it - - -

25 Why?--- - - - before the private hearing.

Why didn't you pay attention to it?---I just simply wanted to know what exactly he wants me to do. That's why when he send me email, I straightaway forwarded it to the appointment secretary of the Minister.

30

No, you didn't forward that entire email to the secretary, did you?---I did.

Ms Chen, we have got the emails. We have the emails, I know what you sent him. You didn't send that email or that part of the email from Mr Tran which said that an introduction fee will be paid by the lende, did you?---I did, counsel. I can show you the email I read.

35

The email you read?---Yes.

40 Is this the emails that you were reading after the private hearing examination?---That's correct.

What sort of percentage of the introduction fee would you expect for a project such as this?---I didn't expect.

45

Come on, Ms Chen. You've been around long enough to know what sort of percentages would be paid for introduction fees. Come on?---He didn't discuss it -

--

You know what an introduction fee is, don't you?---Yes, I understand.

5 Are you involved in any other arrangement where an introduction fee is paid?---After the City's suspension - after the Council's suspended.

After the Council is suspended?---Yes.

10 You became aware what the percentage is of an introduction fee?---Percentage, no, I had no idea.

You've never been involved in a commission payment before?---Yes, I do have.

15 You have, have you?---Yes.

After the Council was suspended?---Yes, or even before that. For the colleges, when you introduce students to them, they would give you a commission.

20 So that's the colleges. Is that the Stanley College?---Yes, correct.

Is it?---Yes.

Any other?---ECU.

25

You've been paid a commission?---Yes.

What's that commission rate?---Cannot exactly remember because - - -

30 Give it a go. Give us a rough one?---Some of them 10 per cent, some of them 15 per cent. I also didn't pay attention, counsel.

You didn't pay attention to how much you were getting?---Yes. Once they gave to me, even invoices, they did it for me.

35

So you didn't pay any attention to what you were getting?---Yes.

Was it just pocket money to you?---No, no, no, paid directly to the business account.

40

So are they the only commissions that you've been paid?---Yes.

Are you sure about that?---Commissions from the colleges, university, yes.

45 I'm talking about any commissions?---Any commission? Not from Anthony Tran?

Sorry?---Not from Anthony Tran?



No, I'm talking about any commissions now. You know that, you know I wasn't asking about Mr Tran's. We had moved on from there, for the moment?---Yes.

5 I am asking you about other commissions that you've received. So you've mentioned the Stanley College, you've mentioned ECU and you've mentioned amounts of 10 to 15 per cent?---Yes.

10 What other commissions have you received from anything, any organisation or company, or individual?---Bupa Insurance.

Sorry?---Bupa, B-u-p-a, Insurance.

15 You've got commission from them as well, have you?---Yes.

What was that for?---That is when you sent people who purchase their insurance and they also give you this one, give commission.

20 You get a commission? How long have you been doing that for?---Not long.

How long?---Over one year.

Over one year?---Yes.

25 Since you've been suspended?---Yes.

Not before that?---Before that, should have few as well.

30 You should have from Bupa, the health - - -?---Health insurance.

Yes. How much commission do you get from them?---I also could not remember.

Have a go?---Percentage-wise, no idea.

35 Amount-wise then?---I even didn't check it.

40 Because it's just small biccies, is it? Do you know what I mean by that? It's just small change, it's not a very significant amount to you, is that right? Is that why you don't pay much attention to it?---Possible.

Possible?---Yes.

So Bupa, Stanley, ECU?---M'mm.

45 How long have you been getting these commission from Stanley?---Some time.

How long, about?---Few years.

Few years?---M'mm.

5 About when did it start?---Probably four or five years.

Four or five years now?---As a part of my private business.

Part of your private business?---Yes, not a City of Perth role.

10 It's not what, sorry?---City of Perth Councillor is a part-time job. I have a full-time business.

I understand that, yes, of course. So that's private, yes, that's commissions from Stanley College for four or five years. ECU, how long have been you been getting

15 commission from that tertiary institution for?---For sending students. I think I didn't get any so far, just sign up as agent to help the university to bring students in.

So you've signed up?---Yes.

20 Some sort of agreement?---Yes.

And that agreement would have the percentage that you would get or the commission that you would get?---Yes, it's my business.

25 So is it a flat fee or is it a percentage of their tertiary fees that they are charged?---I think is tertiary fee they charge, they gave a percentage to all the agents.

And is that somewhere between 5 and 15 per cent?---Yes.

30 So we are getting some idea now, aren't we?---Yes.

Of the sort of introductory fee that someone would be paid?---Yes.

35 Let's just go back to Stanley for a moment. You would be getting more than \$500 a year from Stanley, wouldn't you?---Yes, possible.

And from ECU, you reckon you haven't been paid anything yet?---Yes.

40 And Bupa, have you received amounts of more than \$500 per year from that health agency?---Possible.

Possible?---M'mm.

45 Most likely?---Yes.

Any others? Any other commission agreements other than those three, and the one

that you had with Mr Tran?---From time to time people would ask me to help, similar like Anthony Tran. They would give introductory fee but most of them were unsuccessful.

5 Who were they?---Not exactly remember but in one email, there is an email from called Alan Green.

Alan Green?---Yes, but he didn't mention introduction fee. He just asked me to do certain things for him.

10

That's in relation to the Anthony Tran project, isn't it?---Possible, yes. I didn't connect the both.

15 I want to know whether you have any other commission payment arrangements with any other organisation, body or entity apart from the ones that you have now identified?---Cannot recall, counsel.

So you've recalled those four, Bupa, Stanley, ECU and Alan Green but you can't recall any others?---Yes.

20

Might there be others?---Cannot remember.

25 This question that I've asked you is one example of many, many, many questions that I ask witnesses last week and this week. I know the answers to the questions. I'm not seeking information, I actually know the answers, so I will give you one more opportunity: what other organisations, entities, companies have you had a commission-based payment?---Must have some but I cannot recall right at this moment.

30 When will you be able to recall? Maybe not until I give you names?---Please.

Would that be right?---Please.

35 I'm not going to do that. So what business are these other entities in? Obviously we have got tertiary education?---Mm.

Health?---Mm.

40 Projects, infrastructure projects from Mr Green; what other things do these other entities do that you can't remember?---Not in the capacity of a City of Perth Councillor, it's all in my private business.

Not in your private business?---No, all in my private business.

45 Sorry, it's not in your City of Perth capacity?---Not in the capacity of a Councillor.

That wasn't the question. I was asking you what other work - what do these other

entities do that you can't remember paying you commissions for? What do they do?---Yes, I cannot remember.

5 What, are they other tertiary institutions?---One is UWA and I didn't bring any students, that's why I ask them to terminate the agency agreement.

So UWA is another one?---Yes.

10 This is bringing in students from where?---Anywhere they wish.

Overseas students?---Yes, correct.

15 So that's another tertiary institution?---Counsel, I asked them to terminate the agency.

Yes, terminate, thank you for that. So you didn't receive any commissions from them?---No.

20 What other groups did you actually receive commissions from, apart from Bupa, Stanley and ECU?---Cannot remember.

Cannot remember or don't want to remember?---If you give me more information I may refresh my memory.

25 You see, I'm thinking these commissions you're getting from Stanley and ECU and Bupa, they wouldn't be very large, would they?---From where?

[10.30 am]

30 All these commissions that you've been receiving, how much money would you get from them on a year by year basis, starting with Bupa?---Bupa - - -

You said possibly over \$500?---Yes.

35 What, more than \$1,000?---Should be - Bupa is more than \$1,000.

More than \$10,000?---No.

40 So between \$1,000 and \$10,000?---Much less.

Much less than \$10,000, okay. Stanley, how much would you be getting on a yearly basis from Stanley College?---Year by year, less and less.

45 Less and less?---M'mm.

So more than \$10,000 a year?---No.

Much less than that?---Yes.

ECU, I think there was not any payment?---No.

5 Or from UWA?---No.

Just to make it abundantly clear, I'm talking about introductory fees or commissions, okay? Introductory fees, so bearing in mind now that I'm asking you about questions about introductory fees like the one that you had arranged with  
10 Anthony Tran, what other arrangements had you made?---With Anthony Tran?

No with anything, with any other entity?---I just said, I cannot remember.

15 Was this a written arrangement you had with Bupa? Was it something in writing?---Yes.

With Stanley, was that something in writing?---Yes.

20 ECU, was that something in writing?---Yes.

UWA, that was something in writing as well?---Yes.

25 Have you had any other agreements or arrangements for commission or introductory fees that have been in writing?---Before 2018?

Yes?---I cannot - - -

30 Your time as a Councillor. There we go, so between 2011 and 2018?---Cannot remember.

Cannot remember?---Yes.

So that means that there are others?---I remember that I've already told you.

35 What ones have you received the most money from? That would surely stand out, wouldn't it?---Possible Bupa and the Stanley College.

Bupa and Stanley College they would be the ones - - -?---Yes.

40 - - - that stand out the most because of the money you've received?---Yes.

45 But those amounts are not very - I don't know, it depends on who you are. How much have you received from Stanley, approximately?---Cannot remember exactly.

I said approximately?---A few thousands.

A few thousands?---Yes.

Is that all?---Yes. I didn't have so many students for them.

5 Bupa?---Bupa, B-u-p-a.

That's it, thank you. How much from them?---Yes, also few thousands.

So they are the ones that stand out because of the amounts involved?---Yes.

10

Is that right?---Yes.

So you haven't received introductory fees from any entity that amounts to tens and tens and tens of thousand of dollars?---No.

15

You would remember those, wouldn't you?---Yes, if I got it, I would remember.

Your memory seems, though, pretty good with respect to these groups that you've had arrangements for introductory fees or commissions paid to you, your memory seems to be pretty good in that regard?---Yes, because every year they send me the agency agreement to renew and to sign. If up-to-date, then I could remember, if I'm not - - -

20

You can't?---M'mm. Like Anthony Tran, since January 2017 and on the Facebook, I added him, since then we didn't have much inter-reaction. That's why I couldn't remember him.

25

So you're saying now you can only really remember these arrangements you've made if you're re-signing the agreement on a year by year basis?---Yes.

30

So what happens then when you receive some money into your account and you've forgotten where it's from, what do you do then?---So, I don't know.

You don't know?---No.

35

You've just got this money in your account and you don't know where it's from?---Mm.

Ms Chen, we are going back to Anthony Tran now. Do you remember him saying to you, with this introduction fee, it would be split 70 per cent for his company and 30 per cent for you?---I didn't recall what he said.

40

Does that sound about right though?---I didn't recall.

No, but does that sound about right? Is that the sort of thing you would agree to if you were paid approximately one-third of the introduction fee?---I cannot recall he did say to me.

45

Yes. I'm saying though to you, would you have accepted that sort of arrangement, that you would get 30 per cent of the introduction fee?---Possible.

5 Possible? I'm going to say you did. That figure was mentioned and you did accept it, does that jog your memory now?---No, I cannot remember that bit.

But at least you were prepared to say that if he mentioned that figure to you of 30 per cent, you would have said yes, is that right?---Yes.

10

The introduction fee, you've mentioned that you've received introduction fees of anyone between 5 per cent and 15 per cent. So what do you think a reasonable introduction fee would be, percentage-wise, of these sorts of projects that Mr Tran spoke to you about?---Should be 3 to 5 per cent.

15

3 to 5 per cent?---Yes.

3 to 5 per cent of the project's gross development value?---I never experienced that kind of introduction fee, that's why it's very hard for me to say it.

20

I think you're pretty much right on the money there when you say 3 to 5 per cent?---These are commercial dealings.

Yes?---Just common sense.

25

It's very similar to the evidence Mr Tran gave of the percentage fee for the introduction fee, okay?---Mm hmm.

This email he sent to you, we might put it up now. Madam Associate, could we put up 5.0055, please. This, sir, is TRIM number 19926.

30

COMMISSIONER: Thank you.

MR URQUHART: There we go. You remember this, don't you?---Yes.

35

That second sentence or second paragraph there that he's got in that email he sent to you on 12 May 2016:

40

*Following my discussion I am more than happy to discuss with your - that should be you - the funding opportunity I can present to you.*

Given the fact you've been more forthcoming now in your evidence today, that funding opportunity was the funding opportunity for you, that is how you could earn some money, isn't that right?---No.

45

Oh dear. Really? Really? He's saying to you, "This is the opportunity I present to you to be involved in these business dealings I've got", isn't it?---No.

Okay then, what's he talking about there when he said, "I am more than happy to discuss with you the funding opportunity I can present to you"?---My reading of funding opportunity is through me to give to the State.

5

To the State?---Yes.

Unfortunately there, he says "the funding opportunity I can present to you", not to the State, to you?---Yes, to me, through me to the Minister.

10

You weren't working for the minister, were you?---No.

But in any event, at the bottom of the page there, right at the last line there:

15

*An introduction fee must be paid by the lendee upon receipt of EPC funds negotiated on a case by case basis.*

EPC standing for, as you well knew, engineering, procurement and construction, isn't that right?---I don't really know what those abbreviation represents but I think is one of his companies or a company he represents.

20

The first dot point there about two-thirds of the way down the page:

25

*Project GDV - which stands for gross development value - must be roughly at least 1 billion ringgit - which is the Malaysian currency - or AUD\$300 million.*

Okay? So a AUD\$300 million project. So for an introduction fee, if at 3 per cent - you said 3 to 5 per cent, let's use 3 per cent - that is going to be an amount of - let me work this out - \$9 million. \$9 million in introduction fee, that's right, isn't it?---Yes.

30

So if you were to get 30 per cent of \$9 million, that would be over \$3 million?---Correct.

35

Wow. You say you were playing the role of a City of Perth Councillor?---That is not part of.

No, it's not, is it?---That is private dealings.

40

Yes, but you were, you've told us, acting in your capacity as a City of Perth Councillor?---Yes. I thought - - -

So you were going to get, possibly - possibly if one of these projects went ahead, \$3 million?---That is dream, never can happen.

45

You were very excited about it though, weren't you?---No.



No, you weren't excited about the prospect of getting \$3 million?---No. I knew is very difficult.

5 Why not? Why weren't you at least just a little bit excited about this opportunity?---No.

No, not at all?---No.

10 Not the least bit interested?---As I said, I have two roles to play, one is in the capacity - - -

No. Were you the least bit interested?---Of course.

15 Yes, of course, and you were interested because of the fee that you could get, isn't that right?---That is probably a part - a small part of the reasons.

No, come on, Ms Chen, really? A small part or a major part?---Is a small part.

20 Why is it only a small part?---Because I just wanted to try to help them and if successful at the same time, I could get a commission. This is a bonus.

A huge bonus though?---I knew this kind of project is - - -

25 The question is, a huge bonus, isn't it?---Yes.

I think you were about to say a project such as this is impossible?---Yes.

Didn't stop you from trying though, did it?---Yes, I tried.

30

It didn't stop you from trying very, very hard?---I did.

Let's have a look at your efforts in trying to get this project up off the ground, shall we? Let me just confirm this: you were to enter into an arrangement with Mr Tran and his company, weren't you?---Didn't reach that point.

35

[10.45 am]

40 It did, because you then started making enquiries, trying to set up meetings, didn't you?---Yes.

So by doing that, you agreed to be part of this venture, didn't you?---Yes.

45 And you were to be a partner of the company that Mr Tran created for this purpose?---No.

No, business partner?---Never mentioned.

What sort of relationship did you have then with Mr Tran's company?---It's very casual, once-off.

5 What sort of relationship was it?---Just ask me, request me to make arrangement.

A bit more than that. There was an arrangement also for you to be paid a fee?---Yes.

10 So it was a business relationship, wasn't it?---Yes, not business partner.

Your evidence at the private hearing on 2 July this year - sir, this is at page 24 - was this:

15 *He - i.e. Mr Tran - only asked me to help him go to the department and they directly have conversation with him.*

That's not correct, is it, you did more than that?---I did arrange for Minister to meet with them first.

20

You did more than that though, didn't you?---I did, yes.

These projects that were being proposed, none of those were going to be built within the City of Perth, were they?---Possible transport, transport infrastructure.

25

Let's see what his email says about these projects. About halfway down that page or maybe two-thirds of the way down:

30 *Please see below for a summary of the EPC finance opportunity available on hand for potential power plants, ports and transport infrastructure projects.*

Do you see that?---Yes.

35 \$300 million power plant, that wasn't going to be required by the City of Perth, was it?---No, not for City of Perth, for State.

Yes. A \$300 million port, I don't think the City of Perth needed one of those, did they?---No, for the State Government.

40

I think the Barrack Street jetty is fine, isn't it?---Yes.

And a \$300 million transport infrastructure project, that's a bit too big for the City of Perth, is it not?---No, we did discuss about, you know, the tram come to the City, in the centre of the City.

45

\$300 million?---Didn't talk about how much.

Those tram tickets are going to have to be very expensive if it was going to be a project costing a minimum of \$300 million?---I didn't discuss with Tran. At the City of Perth we did discuss about the State Government project and then City of Perth discussion.

Ms Chen, you didn't tell anyone at the City of Perth about this arrangement you had with Mr Tran, did you?---I didn't. I - - -

No, of course not?---These are two separate things.

You would be silly to do that, wouldn't you?---I could, because this email - - -

It would be silly for you to do that, wouldn't it?---No.

No? It wouldn't be silly for you to tell anyone at the City of Perth that you were going to be paid a multi million dollar potential introduction fee for working with this Mr Tran?---I could.

But you would be very silly to do that, wouldn't you?---No, I'm able to give to them.

Does Mirrabooka fall within the precincts of the City of Perth?---No.

So you have this meeting with Mr Tran some time around 11 May of 2016. You were trying to work things out and push this project forward within a week after that, weren't you?---Which project?

Sorry?---Which project?

This project that Mr Tran had?---In the email?

Yes. I'm just asking you, within a week you were starting to make contact with people?---Yes.

And Mr Green was the first person, wasn't he?---Yes, maybe.

So why were you contacting him?---He probably is very successful person in connecting people.

A bit like yourself?---Very possible. I'm not as successful as he did.

You're very successful at connecting people, Ms Chen, aren't you?---Not really, in substance. I connect people but not successful; rate is very low.

Madam Associate, if we can take that document down and if we can put up, please, 5.0295. So you're contacting Mr Green, aren't you, to organise a meeting at

first with the Treasurer, weren't you?---He asked me, yes.

Who is he?---Alan Green.

5 Alan Green or Anthony Tran?---From this email, I could tell is from Alan Green.

But the idea was for Mr Green to be involved in the plans that Mr Tran had, isn't that right?---Possible.

10 Definite?---Ring my bell, yes.

This is ringing your bell, is it?---Yes.

15 It is, isn't it? Have a look there. You're contacting you, he's emailing you regarding that meeting you had with Mr Tran the week before, isn't it?---Not sure whether these two can be connected.

We will see if we can make the connection then. TRIM number, sir, 22517, this one is.

20 COMMISSIONER: Thank you.

25 MR URQUHART: He is listing for you some of the projects he's achieved between the PRC, and I reckon that stands for People's Republic of China, doesn't it?---Yes.

And Australia?---Yes.

30 And you knew that these companies that wanted to be involved in projects that Mr Tran was trying to organise were from China?---Not sure. Some of them may be from Malaysia.

Or at least Chinese backed, would you agree with that?---I didn't investigate into it.

35 It was in the email?---Because they confuse me with the Malaysian money.

There is no need to pull up this email, Madam Associate, I'm just going to read it out. This is Tran's email to you:

40 *We have been advised to seek projects in Australasia with minimum project size of AUD\$300 million. CMEC, a central China government backed institution, is looking to assist with such deals globally in order to stimulate their economy.*

45 So it had a Chinese connection, didn't it?---Yes, I think so.

Thank you. You wanted to find out from Mr Green what projects he has been able

to do between China and Australia, and he lists them all. He lists 10, if we go over the page now, to 0296, do you see that?---Yes.

5 Mr Green is the commercial agent for Tianjin ASEAN Economy and Trade Promotion Agency, do you see that?---Yes.

He's also executive Chairman of the China Green Group Pty Ltd, do you see that?---Yes.

10 I'm not good with my China geography but Tianjin, is that a place some where in China?---Yes.

There you go. So you've already contacted Mr Green before he sent this email, didn't you?---Not sure is before or after.

15 If we go now to 5.0294, thank you, Madam Associate. Down the bottom of that page you wanted to know - you responded just over an hour later:

20 *Hi Alan, this is your background or the meeting purpose? Not clear to me, sorry.*

Then you go on on the next page - you won't need to see that, "Please restructure it, thanks." Okay?---Mm.

25 So what was the meeting?---Counsel, your question?

30 What was the meeting that you referred to there, "This is your background or the meeting purpose? Not clear to me", what's the meeting that you're talking about?---He probably asked me to arrange a meeting as well and then I ask him to give me some of his background and he list all the projects he did. Then I said, that is your background or that is your meeting purpose.

35 But you'd already discussed the fact that you wanted to organise a meeting with the then State Government Treasurer, Mike Nahan, did you not?---Yes.

You just need to look at the subject heading there?---Yes.

40 If we go now to 0293, thank you, Madam Associate. It's still got the same TRIM number, sir, 22517.

COMMISSIONER: Thank you.

45 MR URQUHART: At the bottom there of that page, you've sent an email to Emily Baird, the Department of Premier and Cabinet, do you see that?---Yes.

You had contacts within the State Government, didn't you, bearing in mind it's a Liberal Government at the time?---Yes.

"Dear Emily" and then over the page to 294, thank you, Madam Associate:

5                    *Please find following correspondence that I could get, kind regards.  
There are AUD\$2 billion fund to be utilised on large projects but with  
return he mentioned. I try to connect the purpose of which is it whether  
is possible for the funds to be used by the WA Government.*

10 Mr Tran's email refers to projects in Australasia, so it wasn't just confined to WA,  
was it?---No. He said he wasn't successful in eastern States.

If we go now back to 293, thank you, Madam Associate. Ms Baird:

15                    *Thanks, Lily. I will need to discuss both requests with the Treasurer  
and get back to you.*

That was on 19 May. Then on 24 May, at the top of the page:

20                    *Dear Lilly, further to email requests regarding Alan Green and  
Anthony Tran -*

Do you see that?---Yes.

25 :

*I have spoken with the Treasurer and he has advised it is not  
appropriate for him to meet. Please accept his apologies, Kind  
regards, Emily Baird.*

30 Who was the appointment secretary for the then Treasurer. So you tried to  
organise a meeting with the Treasurer for Mr Green and Mr Tran, do you see  
that?---Yes.

35 That was to do with the projects that Mr Tran discussed with you, isn't that  
right?---Yes

[11.00 am]

40 So what did you do then?---Then I think I went to a Minister, responsible Minister  
potentially for those projects.

Yes. So you tried to use your contacts with government to have a meeting with -  
do you remember who that Minister was?---Mamion.

45 Yes, Minister for State Development and Finance?---Yes.

Madam Associate, if we can go now please to 306 first. It is now just a couple of

weeks later, 7 June, and the subject is, "CMEC", which is that Chinese entity I referred you to a moment ago that was in Mr Tran's email, "EPC finance":

5 *Hi Nicola, I am forwarding a request to meet the Minister for you to consider, kind regards.*

Do you see that?---Yes.

10 You're sending all these emails from your law firm's email account?---Correct.

Aren't you?---Yes.

Not from your City of Perth email account, are you?---No.

15 Because it's got nothing to do with the City of Perth, has it?---There is something to do with City of Perth, is because I play two roles. One is the capacity for the Councillor, another one is the capacity of my private business owner. So - - -

20 But you're acting in your capacity as your private business owner, aren't you, here?---That's what I'm talking about intention in first place, is any investments, I would like to bring to the State - - -

25 COMMISSIONER: What's the answer to counsel's question, Ms Chen?---In these emails, this is a private dealing.

MR URQUHART: All your dealings with Mr Tran were private business dealings, weren't they?---Yes.

30 If we go now, please, Madam Associate, to 305, right at the bottom of the page:

*Good afternoon, Lily.*

This is from a Ms Lowe:

35 *Thank you for your email request for meeting with Minister Marmion.*

It's sent from Ms Lowe's email address and we might find out when we go over the page who exactly it's from. So 306 now - thank you, Madam Associate, you're one step ahead of me:

40 *Due to a highly over-scheduled diary, the Minister is unable to meet with you. However, I can offer you a meeting with the Minister's policies advisors, Mr Cam Fraser and Mr Gary MacLean. I would like to suggest the following date for the meeting to take place.*

45 There it is, Friday, 1 July 2016 and where it's going to be, and it's sent by a Nicola Byrne, on behalf of Ms Lowe, who's the appointment secretary for the Honorable

Bill Marmion. If we go back now to 0305, you forward this email trail on to Mr Tran, don't you?---Yes.

:

5

*Hi Anthony, the advisors can meet with us, so that is great. Please confirm if this date and time are suitable to you and your wife, regards.*

10 Did you mean wife or his business partner?---I think from the beginning he said his wife was Chinese. He said he would bring his wife to meet with me.

So he responds on Thursday, 9 June, the next day:

15

*Hi Lily, no problem. I will bring my business partner for the discussion, thanks, Anthony Tran.*

Okay?---Yes.

20 Do you remember preparing or being forwarded a meeting agenda for this meeting? I will see if we can help you out. If we go to 0299 now, thank you, Madam Associate. Before we do that, did that meeting go ahead on 1 July?---I'm not sure. There was only one meeting.

25 Only one meeting?---M'mm.

We will have a look at 0299, thank you. Can you see there - was there at one point the plan to have a meeting with Minister Marmion on Wednesday, 8 June 2016? Do you see that subject heading at the top of the page, this is an email from Mr Tran to you on Tuesday, 7 June?---Not in this email.

30

So there wasn't going to be a meeting on 8 June?---There is a meeting with the advisors of the minister but not with the minister.

35 Mr Tran seems to be sending that email in response to something he received from you about 45 minutes earlier. Do you see at the bottom of the page?---Yes.

40 On 7 June 2016 at 2.36 pm, and there seems to be an attachment, "Meeting agenda form" and we can see that form if we go now to the next page, 300. Sir, incidentally, this is email 22518 and for what it's worth, the TRIM number for the previous trail of emails was 22519.

COMMISSIONER: Thank you.

45 MR URQUHART: Do you see that? Did you forward that on to Mr Tran?---I forwarded the empty form for him to complete. He completed this one and sent it back - I think directly sent it to me and the person in the minister's office, Lowe something.



The notes that he says for the meeting, "EPC finance", engineering, procurement, construction:

5                    *Interest free financing for projects evaluated from AUD\$100 million, infrastructure projects such as power stations, sea ports, transport, mining and other infrastructure projects.*

10                  Then he names the strategic partners that he named in the email he had sent to you the previous month. So there was that meeting with government advisors, is that right?---Yes.

                    And you attended?---Yes.

15                  Why did you attend?---Just accompany them.

                    Yes, but why? Obviously you accompanied them if you attended, but why?---I was asked to.

20                  Do you remember that meeting?---Yes.

                    So does Mr Tran. So I'm going to ask you this question in a non-leading fashion: who did the talking on behalf of the group that you were with? Who did the talking?---Anthony Tran.

25                  No, careful. Think carefully?---Are you talking about introductory?

                    Just the meeting, talking about this project, who did all the talking?---If not Anthony Tran, must be his male partner.

30                  Try again?---His male partner.

                    No, not Mr Siew. Try again?---Then I have no idea, because there's only two of them.

35                  Yes, and you?---Yes.

                    Yes?---I didn't know the projects very well.

40                  But you were the person who had organised this meeting?---Yes, I did.

                    You were supposed to be the glue in all of this, do you understand? You were to be the person, the go-between between the State Government and Mr Tran and Mr Siew, yes?---Connecting them.

45                  Yes, connecting people?---Yes.

And you did your best to connect the two groups at this meeting, didn't you?---Yes.

You did a lot of the talking, didn't you?---I did some talk but not main me.

5

It was mainly you, wasn't it?---No, counsel, no.

Because that's why you went along because you were going to be the spokesperson on behalf of Ausinvest, weren't you?---No.

10

Otherwise there's not much point in you attending, is there?---It was my arrangement, that's why I should go.

There's not much point you attending if you weren't going to do any of the talking?---I did some talk, not the main person.

15

You handed out your business card, didn't you?---Yes.

To the government advisors in attendance?---Yes.

20

And would I be right in saying that it was your City of Perth Councillor's card, wasn't it?---I always have two cards carried.

You've told us that but I'm asking you - the question's not going to go away - you handed out your City of Perth Councillor card, didn't you?---Yes.

25

Why did do you that?---I don't know, just gave cards. Normally I give two cards at the same time.

What card should have you handed to them?---If it was a private dealing, it should be my personal business card.

30

Yes, but you didn't hand them that, it was your City of Perth Councillor's card. So why did you do that, given the fact you had both of them with you?---Not intentionally.

35

Of course it was intentional. Why did you do it?---Just introduce myself.

Sorry?---Introduce myself, introduction of myself.

40

Yes. You could have done that with your law firm's business card, couldn't you?---Could.

Yes, but you didn't?---I didn't.

45

You chose your City of Perth Councillor card and we have established that you shouldn't have done that but I'm going to ask you why did you do that, and I will

keep asking you that until I get an answer?---Just as normal, gave the business cards to someone.

5 So you normally hand out your City of Perth business card, do you?---Normally, I give both. If one run out, I would give another one.

10 You told us you had both cards on this particular occasion and you just handed your City of Perth to these people with respect to a meeting that involved private business of yours. So why the City of Perth Councillor card?---By mistake.

15 No, it wasn't a mistake, was it? They are two completely different looking cards?---I cannot answer you because - - -

20 You don't want to answer me, do you?---No, I do want to.

25 You wanted to use your influence, what you thought would be influence by virtue of the fact you were a City of Perth Councillor. That's the reason why, isn't it?---No, counsel.

30 That's my explanation?---As a member of the Liberal Party - - -

35 Your explanation - let me finish - is that it was a mistake. I suggest to you that is nonsense. I've given you an explanation that's far more logical and it's the correct one, isn't it?---No.

40 So I will give you another chance: what's your explanation?---I always carry two cards.

45 You've told us that. I want to know your explanation for giving them the City of Perth Councillor card. The question is not going to go away, I'm going to keep on asking it until you give us a truthful, accurate answer, okay? I've said to you what I believe is the truthful and accurate answer. You disagreed with that, I've asked you to give an alternative explanation. It wasn't a mistake, was it?---It was.

50 It was, was it? You meant to get out your law firm business card?---I should have given them two cards.

55 Well, you only gave them one?---Yes, I did give one.

60 Why?---More recognisable.

65 What's more recognisable?---Because through the public duty.

70 Sorry?---The City of Perth Councillor is a public duty.

75 It is a public duty?---Public position.

But you weren't playing the role of a City of Perth Councillor at this meeting, were you?---No.

5 So why was it that you gave these government advisors a City of Perth Councillor business card when you had the correct card to give them?---May have run out at the time.

[11.15 am]

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15

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No, you haven't told us that. You said that you had both cards with you?---I always carry both cards but sometimes only one card left.

5 So this is another time that you've run out of your law firm's business cards because you ran out of them, you said, at the convention of the Australian Migration Institute?---That's correct.

10 So for someone who doesn't use their business card much, you run out of it very quickly. So I want to know what the explanation is, because you've said to us that this card was more recognisable because of your public duty and public position that you have. So is that why you gave that card to these advisors?---I guess so because they not really know me well.

15 So it wasn't a mistake, was it?---Partially it was mistake, yes.

Either it's - you can't have a partial mistake, it's either a mistake or not. It's a bit like being partially pregnant, isn't it? You can't make a partial mistake. Come on, just tell us the truth?---I tell you the truth.

20 Tell us the truth?---Yes, I tell you the truth.

25 Like you're supposed to with respect to every question that's asked of you, whether it's asked once or whether it's asked six, seven, eight times; just tell us the truth?---Okay. My personal business cards are used so quickly. The City of Perth cards very rarely I could use, that's why - they printed for me too many and then I have left over. So that's why, and then when my personal business cards were short, I would carry more City of Perth business cards, City of Perth Councillor's cards. I have still got heaps of the City of Perth Councillor's cards with me now, even in my car because you couldn't give so many City of Perth Councillor cards.

30 Always you want to promote your own business so therefore you always give away your personal business cards and then you're left with a lot of City of Perth Councillor cards. That's why when your business cards not with you because you gave or finished, every day, and then you're left with the City of Perth cards. That's why when you gave and then I didn't really distinguish both because in my

35 personal business cards, also printed City of Perth Councillor. So the effect you gave either card to me is similar, the effect of giving either card will be the same, because it's still showing in my private business cards, it was City of Perth Councillor, the name. I put it in.

40 COMMISSIONER: If you're now telling me that the effect of either card is the same, then why did you tell me a moment ago that you gave your Councillor card because it was more recognisable?---Also more recognisable.

45 No, you didn't say "also more recognisable", I made a careful note. You said, "I gave my Councillor card because it was more recognisable." Having told me that just a matter of minutes ago, why are you now telling me that the effect of either card is the same?---So when - why more recognisable is because my personal

business cards, and put more - - -

I didn't ask you why it was more recognisable. I'm asking you to explain to me the difference in your evidence. Listen carefully?---Yes.

5

You told me a moment ago that you gave your Councillor card on this occasion because it was more recognisable. You've just told me that the effect of either card is the same?---In terms of the title.

10 Listen to the question?---Yes.

Don't just say what you want, Ms Chen?---Yes.

This is not an opportunity for that?---Yes.

15

You must answer questions?---I try.

Please do?---Yes. I try hard.

20 Explain how do I reconcile those two different answers, please?---Okay. Now you let me answer?

You're always able to answer?---Yes. The City of Perth card is only one title. My personal business cards, they got many titles, it's crowded. So the City of Perth card is more recognisable than my personal business cards. However - - -

25

So back to the same point, how then is the effect of the two cards the same?---The private business cards, in terms of the position as the City of Perth Councillor, that particular point is the same. That's what I try to say.

30

You said the effect of either card is the same. How can the effect of either card be the same if you have told me earlier, minutes earlier, that the City of Perth card as a Councillor is more recognisable; how can the effect be the same?---This is two different things.

35

It is two different things which is why I'm asking you about it?---Yes. One is printing, you know, printing thing; another one is the position because either card contains the same position.

40 I am asking you about your evidence, Ms Chen. These are your words, not mine. You said, "The effect of either card is the same", that's your evidence?---Yes.

"The effect of either card is the same." Just minutes earlier you said to me your Councillor card was handed at this meeting because it was more recognisable.

45

Can you see that there is a problem with those two different versions of your evidence?---Is - - -

Can you see there is a problem?---Yes.

Explain to me, please, how I can reconcile those two parts of your evidence?---I just explained, Commissioner.

5

Well, you have not?---I said in terms of the Councillor's position, both cards included the position as the City of Perth Councillor. To that specific area, that point in fact is the same. However, the City of Perth card, because only printed the one position, is more recognisable, recognise me as a City of Perth Councillor more than the private business card.

10

So the effect is different?---Generally, yes, different.

Right. Mr Urquhart.

15

MR URQUHART: Thank you, sir.

The evidence that you've given for the last five or six minutes, do you think that made perfect sense?---In terms of the specific - yes.

20

Regarding your business cards, you think that made perfect sense, do you?---Not perfect.

No, quite imperfect?---Imperfect, yes, correct.

25

Why don't you just give a simple explanation that you made sure you gave them your City of Perth Councillor card because you wanted to make a bigger impression on them?---I told you - - -

30

That is it in a succinct sentence, isn't it?---Yes.

And there was no mistake, you deliberately gave these advisors your City of Perth Councillor card because it would have more gravitas, more importance, that's right, isn't it?---More recognisable, yes.

35

COMMISSIONER: Is this a convenient time to take the morning break, Mr Urquhart, or do you require a little more time?

MR URQUHART: I would like to try and complete this area, if I could.

40

COMMISSIONER: Please do.

MR URQUHART: I might be another - 11.30?

45

COMMISSIONER: Please do.

MR URQUHART: After this meeting you still tried to find opportunities for these

projects to get off the ground, didn't you?---Yes.

Because you sent another email to Mr Tran several months later, in October of 2016, didn't you?---Yes, correct.

5

Madam Associate, if we may just now have a look at 5.0307, thank you. TRIM number, sir, 22521.

COMMISSIONER: Thank you.

10

MR URQUHART: On 24 October 2016 you sent, at the bottom of that page, this email to Mr Tran:

15

*Dear Anthony, here is an opportunity to fund, loan, invest into a private hospital commencing building in 2017 and finished by 2020. The land is from the Public Housing Authority and will settle in end of November 2016. We are pushing through the sign-off by the Minister. If your fund is interested in, I will arrange the meeting ASAP. Please advise, Kind regards.*

20

We need to go over the page, we can establish that it's your email but you remember sending the email to Mr Tran, don't you?---I remember.

This is a private hospital in Mirrabooka, isn't it?---Yes.

25

And he responded later that same day, do you see there at the top?---Yes.

:

30

*Hi Lily, thank you for your email.*

He says that he's apologised for his absence because of some personal matters but more relevantly with respect to the second paragraph:

35

*With regards to the hospital, we were briefly informed about the health centre in Mirrabooka before and were waiting for additional information. We were advised at that time that the DA approvals were not in place so we could not present and do a feasibility based on this. I am assuming we are still waiting for such confirmation, Kind regards, Anthony Tran.*

40

If we can go back down to your email in the second paragraph there, you say "we are pushing through the sign-off by the Minister"; who is "we"?---Should be politicians in the parliament.

45

So were you speaking to politicians in the State Parliament about this, were you?---Yes. They talk to me.



So you were lobbying, were you?---They talk to me, I didn't lobby.

Were you lobbying?---No.

5

They were talking to you because you had asked them to find out if there's any projects that would be suitable for these investment companies?---No.

No? So why were they talking to you then about this development in  
10 Mirrabooka?---They worry about losing the election and therefore they try, you  
know, help this health centre in Mirrabooka to be established, or can be announced  
before election and therefore - - -

And you said to them that you know about a potential investor, didn't you?---I  
15 didn't tell them. This is my own discretion without any Minister's notice and when  
the - - -

So you didn't tell them that?---No.

20 But "we", when you say "we", you're talking about you and Liberal politicians, are  
you?---Yes, but we talking about this project itself, not for the funding of Mr Tran.

"And if your fund is interested in, I will arrange the meeting ASAP"; what  
25 meeting?---If he's interested in investor or loan in this health project, I would  
arrange.

A meeting, but with whom? Mr Tran, you, Mr Siew and who else?---That time I  
didn't recall who is - upper house member?

30 A minister?---I'm not sure if she was minister or not but she certainly upper house  
member and lost the seat in 2017.

So you were still actively trying to assist Mr Tran with this business opportunity in  
35 October of 2016, weren't you?---Yes.

35

Eight emails between you and Anthony Tran between November of 2015 and  
October of 2016, that's what we have gone through today and yesterday. Do you  
remember the summons you received from the Inquiry just last month, after your  
40 private hearing examination?---Yes.

40

You do remember that, do you?---Yes.

And you know what you were required to produce with that summons?---Produce  
45 further, you know, information in relation to Anthony Tran.

45

Yes?---M'mm.

And did you produce anything?---I tried hard. I'm not good - - -

The question is, did you produce anything?---I couldn't.

5 You couldn't?---Yes.

Or you didn't want to?---Especially that email.

You couldn't or you didn't want to?---I couldn't.

10

You couldn't?---Yes.

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

15 Is that your evidence? All right, but you've told the Commissioner yesterday that you, after the private hearing, actually looked for emails that you had with Mr Tran?---Yes, I tried.

20 You said to me - your evidence was that you saw emails between yourself and Mr Tran?---After Deloitte searched.

I'm asking you. You found emails between yourself and Mr Tran after you gave evidence at the private hearing in July, last month, didn't you?---I didn't.

25 That was your evidence yesterday?---I read from my lawyer, they gave to me.

Gave what to you?---Give that email

[11.30 am]

30

Yes. So you did come across at least one email that you had between yourself and Mr Tran?---More than that.

So you saw more, did you?---Yes, through the Deloitte search.

35

What were you supposed to do with that?---I read through.

You what, sorry?---I read it - I read them.

40 What were you supposed to do regarding that summons?---Produce to the Inquiry through my lawyers.

You didn't do that though, did you?---I think through my lawyers, I did.

45 Let's have a look at this then. We will look at the summons. Madam Associate, 5.0321. We are now starting off with the email, do you see that? Read that out to us, please. It's sent to your lawyer, isn't it:

5                    *Dear Mr Thomas, please see attached by way of service a notice to produce for your client's attention. The notice relates to communications between Mr Anthony Tran and Ms Chen which were discussed at the hearing on Tuesday, Yours faithfully.*

It's a solicitor from the Inquiry. Did you get a copy of this notice to produce documents from your lawyer?---Yes.

10    You did, did you? 5.0323, please, Madam Associate, the next page. Do you see it's addressed to you with your address - don't worry, there's a special order in place to make sure that that's not published, Ms Chen, you will be pleased to know. We can go now to Schedule B, 0325:

15                    *The Inquiry requires you to produce the following documents: all documents comprising or recording communications between you and Mr Anthony Tran of Leap Smart.*

Did you read that?---Yes.

20  
:

25                    *In this schedule, document means a document within the meaning of that term in s.4 sub-s.(1) of the Royal Commission Act 1968, including but not limited to any records of information, reports, memoranda, minutes, emails, letters, notes, recordings, transcripts or file notes and within your possession, power, custody or control, or the possession, power, custody or control of Lily Chen & Associates.*

30    Do you see that?---Yes.

And you came across emails of communications between you and Mr Tran, didn't you?---Yes.

35    But you did not provide those to the Inquiry, did you?---I search but I couldn't.

You did not provide those to the Inquiry, did you?---I didn't, but through my lawyers.

40    Sorry?---I did through my lawyer.

You did. Yes, you advised your lawyers that you were unable to locate any such documents in your possession, power, custody or control or that of Lily Chen & Associates?---That's correct.

45    That was a lie?---I did a genuine search and couldn't find anything.

But you did find them?---I didn't myself, I couldn't do myself. I couldn't find them.

5 But you did find them because you referred in your evidence yesterday to finding them?---That is through my lawyers, through Deloitte search, early image and then they did it.

So?---They are the one produce to the Inquiry.

10 Why didn't you produce them to the Inquiry?---On computer, not good. I search very hard.

327, this is the response by your lawyers to the Inquiry. 8 July, so four days after the notice was served on your lawyers:

15

*Dear sirs, Royal Commission Act, notice to produce documents number 40 of 2019. We refer to the notice served by way of email from Thomas Camp on 4 July 2019. We have been instructed -*

20

You know that what means, don't you?---Yes.

These are instructions that your lawyer has received from you?---Yes.

25 :

*We have been instructed that our client has undertaken a search for documents. As defined at Schedule B of the notice - which I have read out to you - and is unable to locate any such documents in her possession, power, custody or control, or that of Lily Chen & Associates, Yours sincerely.*

30

Signed off by your lawyer. Were they your instructions?---Yes.

35 Those instructions were false, weren't they?---I put Anthony Tran, different names, tried to find but I was unable to find.

But you found them?---I didn't.

40 You did find them, you told us yesterday that you found emails of correspondence between you and Mr Tran. Is that evidence you gave yesterday, was that true or false?---It's true, after - - -

It's true?---After my lawyer give to me, not I give to them.

45

What do you mean "after lawyer give to you"?---It is through the Deloitte search, not in my office. It's earlier, very early of the Inquiry.

Go on. Continue with your explanation, don't mind me. Why couldn't you find the documents?---I said to you, I tried hard, I told my lawyer - - -

5 You put into the search "Tran"?---Yes, I put Anthony as well and then - - -

Leap Smart?---Yes, Leap Smart.

You did all that?---Yes, I did all.

10

And you're saying you didn't come up with any emails?---Yes, to my surprise, yes.

To my surprise as well, Ms Chen?---Yes.

15

But you should have, shouldn't have you?---Yes, I should have because the same computer, didn't change.

That might be a convenient time now, sir.

20

COMMISSIONER: Thank you. I will adjourn for 15 minutes.

**WITNESS WITHDREW**

(Short adjournment).

25

HEARING RECOMMENCED AT 11.55 AM

**MS Lily CHEN, recalled on former affirmation:**

30

COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, sir.

35

Ms Chen, though the Council - before I go there, I just wants to ask you one more question regarding your search of emails that you had with Mr Tran. Am I right in recalling that your evidence was that you typed in, in the search section, "Tran"?---Yes.

40

Yes? You've got to give an answer?---Yes.

And you did that and you also typed in, "Leap Smart"?---Yes.

45

And you did not find any email correspondence between yourself and Mr Tran?---Yes. I put more, I put Anthony, I put Tran, I put Leap Smart and I also put City of Perth because that email I forwarded from my laptop - sorry, iPad to my desktop.

If you had done all that, then you should have found a number of emails, shouldn't have you?---Should.

But you didn't?---I couldn't.

5

Nothing came up?---No. I told my lawyer. I hope I could have someone now go to witness me to research again in front of that person what I did.

10 The Council was suspended in March of 2018, do you remember that?---Remember.

Though the Council was suspended then, you were aware, weren't you, that Councillors were still required to file their annual returns for the financial year 2017/18?---Yes.

15

You were aware of that?---Yes, I was told.

You were told?---Yes.

20 You were told by a memo that you received from the CEO?---Yes.

Didn't you?---M'mm.

25 Madam Associate, if we could just a look at, please, 17.0355. Is that a memorandum you remember receiving on or about 6 August of last year?---Yes.

And it had attached to it a blank annual return for Councillors to fill out?---Yes.

Do you see that, it's got attachments?---Yes.

30

But you didn't fill out an annual return for 2017/18, have you?---I cannot remember.

35 I can assure you that the Inquiry has looked high and low, we can't find one from you; why is that?---Cannot remember why because normally they give us the previous return as example for us to complete the new one.

That's right. That's what they did in these attachments, did you see that?---Yes.

40 Attachments: email. You received this email, you told us that?---It was.

You got a blank annual return, form 3?---Yes.

45 Department of Local Government Guidelines, number 21, example return form and previous return, do you see that?---Yes.

So I know you should have filled out an annual return for the 2017/18 financial

year, but it seems you have not; do you accept that?---Can you give me an opportunity to search again for this return? Normally I do it.

I don't place much confidence in your searches?---Yes, correct.

5

You probably won't find it?---Yes.

Because I'm going to suggest one has not been completed?---Can I try again?

10 We have got all the other Councillors' ones but not yours?---Normally is very simple one

[12 noon]

15 You don't remember completing this annual return, do you?---Cannot remember, yes, correct.

I would suggest you haven't?---Because this one is very simple one. Every year similar. I could do that and I cannot recall now. If you give me opportunity, I could go back to search.

20

How would you have forwarded it on to the City of Perth if you had completed?---Sometimes I completed it but because so - - -

25 How would you have returned this particular one to the City of Perth?---I would have scanned and email back.

So you're going to conduct a search of your emails, are you?---Yes.

30 To see if you've sent that off?---Yes.

Because you're required to do that, as that memo says, by no later than 30 August 2018?---Yes.

35 And if you have not done it, then what's the reason for that?---Every year I did it.

But if you have not done this one, what's the reason for that?---Just the last year was very horrible year for me.

40 Is that the reason why you might not have completed it?---Might.

Even though it's a very easy thing to do?---Maybe. I'm not sure right now. I sometimes complete it and it's sent into my personal inbox - folder, and then forgot to send to - email to Mark Ridgwell. Often I completed something, save it, and then forgot to send through. That is a possibility.

45

How serious do you regard your filing of annual returns to the City of Perth - I'm

just asking you a general question now?---Duty of the Councillor, must do it.  
Every year I did it.

How serious do you regard - - -?---Very serious, yes.

5

Do you?---Yes.

Why do you think the Local Government Act requires annual returns to be  
completed and filed by Councillors?---To disclose your financial situation and  
whether you have a conflict of interest and so on.

10

To disclose financial situations, did you say, or interests?---Yes, financial interests.

And what else?---Your assets, your liabilities, your directorships, your trusteeship.

15

And why? Why do you think it's important for all that information to be disclosed  
by Councillors?---Is a disclosure requirement.

Why do you think that?---Because you elected to a public position and then you  
need to be responsible - accountable to the general public or to the ratepayer who  
elected you.

20

So if details are missing, there's not much point having annual returns, is  
there?---Yes.

25

So it's important when filling out these returns to ensure that the details are truthful  
and accurate?---That's correct.

And complete?---Yes.

30

Have all your annual returns been accurate?---Yes.

Have all your annual returns been complete?---To my best knowledge.

35

To your best knowledge? So there might be mistakes there, might  
there?---Normally if we didn't complete properly, the Administration would tell us.  
They check the annual return.

But the Administration would only check if you haven't filled in a box, isn't that  
the case?---Yes.

40

Because how would the Administration know, for example, whether you are  
earning income from another source?---They don't.

45

They wouldn't know?---Yes.

Or whether you've acquired more property?---They are the ones that I always



disclose.

But they wouldn't know, would they?---They wouldn't, if I don't disclose.

5 So how accurate do you say your annual returns have been with respect to all the property in your name that you are required to declare?---All I declared in my name.

Have you?---Yes.

10

What about in respect to all sources of income you've received that you are required to declare, have they all been accurate?---Through my company, yes.

And complete?---Yes.

15

You're sure about that?---This is through the tax return.

Sorry?---Through tax return.

20

Is that what you've relied on?---Yes.

To complete your annual returns?---Yes.

25

If you haven't filed an annual return for 2017/2018, the only excuse you've got is, you forgot, would that be right?---Potentially, yes.

Would there be another explanation?---Is really extremely busy as sole practitioner. I had a very hard time from December 2017 to December 2018. I lost almost all the employees, so I had to work almost seven days.

30

But you've just said, it's very easy to complete?---Yes, so this annual return itself is not difficult. You just needed to be honest to complete the form, list all your properties.

35

Honesty?---Yes.

That should be first and foremost, shouldn't it?---Yes.

40

And you have been honest with the completion of all your annual returns, do you say?---Yes.

When you're first elected as a Councillor, you're required to complete a primary return, aren't you?---Yes.

45

Do you remember completing that?---Yes.

Madam Associate, if we could look, please, at 17.0939. TRIM number, sir, 17925.

COMMISSIONER: Thank you.

MR URQUHART: Is that your handwriting there?---Yes, correct.

5

You've got a start date there of 16 October 2011?---Yes.

Because that was the day that you were successfully elected?---The following day, yes.

10

The following day?---M'mm.

So we have got some real property there that you've identified?---Yes.

15

The third one there, [REDACTED] ?---Yes.

Was that an investment property?---They are the ones, the investment property at that time was not subdivided and was not built into four.

20

Income sources, you've got there, "Solicitor, Lily Chen & Associates, 26/8 James Street, Perth"?---Yes.

And you've described it as your principal. Weren't you acting as a migration agent at this time?---No.

25

You weren't?---I am lawyer first before I became migration agent.

In what year did you become a migration agent again?---2003.

30

2003 or 2013?---Let me see, 03, no 2003.

2003 you became a migration agent?---2001 I become a lawyer.

So 2001 you became a lawyer?---Yes.

35

2003 you became a migration agent?---Yes.

And when did you start working and earning income as a migration agent?---After I registered.

40

When did you register?---2003.

2003?---M'mm.

45

So you were earning income as a migration agent?---That is - - -

Let me finish, as of October 2011?---Yes, correct.

Why then haven't you declared it as an income source there on your primary return?---That is belongs to Lily Chen & Associates, not a separate. Is immigration law.

5

You're a migration agent?---Yes.

That's not - you've got here your occupation as a solicitor?---Yes. Yes, solicitor, you could do immigration law.

10

I accept that but you were working as a migration agent as well?---Yes, both.

So a source of income for you was in your work as a migration agent?---All belongs to Lily Chen & Associates.

15

That might be so but, and I will ask the question again, you were doing work as a migration agent?---Correct.

In 2011 and you haven't declared that - - -?---No.

20

- - - as an income source, have you?---No.

Why is that?---As I explained earlier, as registered migration agent and as solicitor, and all working for Lily Chen & Associates. So the income is all from one source.

25

That might be so but the description of your occupation, you've only put, "Solicitor"?---Yes, I only put one.

Should have you put the other?---Should.

30

And you didn't?---No.

Why is that?---Solicitor sounds better.

35

The solicitor sounds better?---Yes, and also couldn't do migration cases.

But why should you only put down things that sound better on your primary return?---I acknowledge I should put migration agent as well.

40

So there's an error?---Yes.

If we just go to the final page now, please, 0942. Maybe just before we do that, if we could go to 0941, thank you Madam Associate. I'm sorry about that. I've got a very diligent instructing solicitor to my left.

45

If we just have a look here, please, item 4, "Interests and positions in corporations", do you see that?---Yes.

You've written in, "N/A" which means not applicable?---I was talking about interests in the positions in other corporations other than my own, so I said not applicable.

5

Other than your own?---Yes.

What do you mean by that? You had to disclose any interests and positions you had in corporations. You had a position and an interest in the corporation in 2011, didn't you?---Yes, in my own company.

10

Yes, in Wayon Pty Ltd?---Correct.

You'd been a director of shareholder of that company since 2008?---Yes, correct.

15

But you didn't disclose that?---This is error because I thought the question is, apart in your own corporation, whether you have an interest or position in other corporations. My mistake, understanding.

Where does it say that?---Misunderstanding of myself.

20

How could you misunderstand that? It says, "4. Interests and positions in corporations"?---I tended to forget my own because I thought everyone knew, so this is a wrong presumption.

25

How could everybody know that you are a director and shareholder of Wayon Pty Ltd? It's not on the stock exchange, is it?---No.

How could people know?---That is a mistake.

30

So everybody didn't know, did they?---No, not everyone knows.

So why did you say, not 30 seconds ago, that everybody knew?---No, I just made a wrong assumption.

35

No, why did you say 30 seconds ago that everybody knew?---Not everybody, that is mistake.

Why did you say that not - now 45 seconds ago?---That mistake.

40

You say you made a mistake in your evidence when you said everyone knew?---That sentence was wrong.

Ms Chen, can I just ask you, please, to tell us truthful answers?---Yes

45

[12.15 pm]

We have just looked at your primary return and we have found two things are not accurate, haven't we?---Yes.

So how accurate were your returns?---I did try at the time.

5

How accurate were your returns?---Maybe - - -

We have got many more to go through. This is just the first one?---Okay.

10 Your evidence was before we started looking at the returns, that they were accurate. That doesn't seem to be the case, does it?---Yes.

If we could go to 942, in just one moment. Sorry, sir.

15 COMMISSIONER: No problem.

MR URQUHART: So what other companies were you a director of in 2011?---Newspaper, is my own newspaper, Australian Migration Times.

20 Is that a company?---Is only business name.

What other corporations were you a director of in 2011?---I cannot remember.

Global Australia Pty Ltd, does that ring a bell?---Global Australia Pty Ltd?

25

Global Australia?---No, that is not my company.

It's not your company?---No.

30 You were a director of that company and your husband was a shareholder. Is this ringing a bell now for you?---No idea. Is maybe registered and it did nothing.

It doesn't matter though, does it, you were a director of it?---I really forgot about that company.

35

You forgot about that one as well, did you?---Yes.

How carefully then did you fill out this very, very, very first return?---Some companies - - -

40

How carefully did you fill out this first return?---At the time, everything is operating, yes, I put it down.

I'm thinking not very, because Wayon Pty Ltd was operating, wasn't it?---I put Lily Chen & Associates, I thought is representing Wayon Pty Ltd.

45

You forgot about Global Australia Pty Ltd?---That one, totally forgot.

It was a company you were a director of from 2008 to 2013?---Didn't have any operation.

5 Didn't have any operation but you now know and you do admit, don't you, that you were a director of that company?---Now I don't know why it was registered, that company.

You don't know why?---Yes.

10

That was something done without your knowledge?---Is someone else probably registered.

Somebody else registered your name?---With my consent.

15

With your consent?---Yes.

So it should have been disclosed, shouldn't it, in your primary return?---Should.

20 So what does Global Australia Pty Ltd do? Nothing?---It didn't do anything.

It didn't do anything at all?---I'm not sure, let me refresh my memory. I guess is a company that try to do something to do with aged care or not.

25 Right?---Yes, I just now try to think. It's a friend who wants to do aged care or something.

So you remember that now?---Yes, now I - - -

30 And you remember that you were a director of it for five years?---Probably because it didn't do anything, that's why I tended to forget about it.

You didn't declare it in any of your annual returns either?---No.

35 If we go to your very first annual return now. 945, thank you, Madam Associate, 17.945. TRIM number, sir, 17924.

COMMISSIONER: Thank you.

40 MR URQUHART: You didn't get off to a very good start with this one because you got the wrong return period. If we go to page 0948, the very last page, let me just see what date it was that you signed it. Do you see that, 29 August 2012?---Yes.

45 You got it in just before the cut-off date which is 31 August, isn't it?---Yes.

So if we go back now to page 945, so this should be your annual return for the

financial year 2011/2012, shouldn't it but you've written 1 July 2012 to 30 June 2013, do you see that?---Yes.

It's not a very good start, is it?---Looks financial year.

5

Wrong financial year, wasn't it?---Yes.

The real property that you've listed, it would appear though that [REDACTED], the units were built by then?---Yes.

10

And were you renting those?---Yes.

At this time, you were renting them?---Yes.

15

Then you've got some other properties there, including one in Brisbane?---Yes.

Were these all your properties you owned in 2011/2012?---Yes.

20

What about unit [REDACTED] in Perth?---That one subsequently also purchased.

Had you not purchased it by 30 May 2012?---Off plan, probably is not settled. Legally, should not be mine.

25

So you bought that off the plan?---Yes.

Is that maybe then why you did not disclose it in real property?---Not settled.

30

Okay. That's no criticism of you, I accept why you would have done that?---Yes.

Income sources, you've again just put, "Legal practitioner", so once more, no mention of your income as a migration agent, is there?---No.

35

Sources of other income, do you see that? You've written, "Not applicable", do you see that?---Yes.

But there were sources of other income, wasn't there?---Those ones all signed a signed agreement with the company, so therefore the source of the income should be from the company.

40

Sorry, what are you talking about?---Talking about you just mentioned.

45

What did I just mention?---You mentioned agreement with Stanley College, with Bupa, with these ones, they all income or commission from schools, is all part of Wayon Pty Ltd's income.

So is that why you didn't have to disclose it?---Yes.

Really? I wasn't referring to those but what other income were you earning?---Rental income.

5 Yes?---Yes.

Why haven't you written down that?---As I listed all those properties in the real property, I thought that is good enough.

10 Why did you think that?---You cannot live all the properties yourself, you only can live one, at one property.

Yes, so?---The rest, they should be leased or empty, sometimes.

15 Why didn't you write down "rent" for sources of other income?---My accountant did it in the tax return.

I'm sorry, that's not your accountant's handwriting?---No, no, this is my handwriting. In any return - - -

20

I'm asking why you haven't written "rent" there, in is sources of other income?---Yes, that is error.

Another error?---M'mm.

25

If we go now to 947, please, Madam Associate. You still haven't written anything there regarding interests and positions in corporations, have you?---No.

And you should have, shouldn't have you?---Should.

30

"Disposition of property", you've got there, "Beijing, China"?---Yes.

Sale, March 2012?---Yes.

35 "Nature of interest retained: cash." So what property was that?---A friend purchased a property with me, together, and she sold.

And you were a part owner of that property, were you?---Yes, correct.

40 In Beijing?---Yes.

Whilst you have been here in Australia, have you owned other property in China, apart from that one?---No.

45 Absolutely sure about that?---Yes.

Positive?---Yes.



100 per cent?---Yes.

5 Would you tell others though that you owned multiple properties in China?---In Australia.

No, in China?---No, I don't have.

10 You've never told people that you've owned property in Shanghai?---No, I don't have.

I know that, but have you told people though that you have?---I didn't. If someone said that, it was a lie.

15 It would be a lie by you, wouldn't it?---No, not me, by the person.

If you said to someone you owned property in a number of cities in China - - -?---Never said that.

20 No, let me finish - that would be a lie, wouldn't it?---That is, if I said that.

Sure you haven't big-noted yourself?---No.

25 To people that you wanted to impress?---No.

Do you know what "big-noted" means?---No, no idea.

30 Then how can you answer that question then?---I only tell the truth. I never said to people - - -

How could you answer that question if you don't know what big-noted means? How can you possibly say no, I never have, if you don't even know what I'm asking you about?---You wanted to impress people, that is big-note.

35 Yes, so you did know the meaning of big-note?---I just guessed. I guessed.

Ms Chen, it's not a good position to guess when you're sitting in a witness box, okay?---The word itself.

40 If we go now to 949, thank you, Madam Associate. TRIM number, sir, 17923.

COMMISSIONER: Thank you.

45 MR URQUHART: This is a very poor copy of this document, Ms Chen. There are some areas that are very hard to read but this is a disclosure of interests for the return period from 1 July 2012 to 30 June 2013.

Those properties that you've listed at 1 are the same as the properties that you listed previously. Had not the apartment complex at [REDACTED], been completed by now?---Now, it required two years - more than two years.

5 Again, you haven't indicated that you're a migration agent in your income sources, do you see that?---Yes.

Were there any other income sources, apart from the income you were getting as a migration agent that you should have included there for this period?---Rent.

10

Anything else?---Nothing else.

If we go now to 0951, thank you, Madam Associate. Did you see that page there? You've listed in the, "Interests and positions in corporations", Wayon Pty

15

Ltd?---Yes

[12.30 pm]

So you at last wrote that in?---Yes.

20

So why was it that it took you the third return to write that in?---Experience. When you were at Council a bit longer, you knew what they required.

But you still haven't written in Global Australia Pty Ltd, have you?---No. That company was inactive, not operational.

25

Where does it say there that you only needed to list interests and positions in active corporations?---Didn't say that.

30

No. If we can go to the next annual return, please, Madam Associate. This is 1 July 2013 to 30 June 2014, 0957. TRIM number, sir, 17922.

COMMISSIONER: Thank you.

35

MR URQUHART: You see that there?---Yes.

Was there something else that you should have added in 1 there, under, "Real property"?---Much more.

40

For example, should you not have added your residential address that you acquired in December 2013?---Yes, correct. This is new.

In fairness to you, what you're required to disclose under 5.79 of the Local Government Act 1995, is "The address of each parcel of real property located in the district or in an adjoining district in which the person has an interest", okay?---M'mm.

45

I'm thinking, am I not, that the adjoining districts for the City of Perth, is one of those the City of Nedlands?---Not sure. City of Vincent should have been.

Yes, City of Vincent, yes, and City of Nedlands as well?---Should be.

5

Do you agree with me that a house that you did purchase in December 2016 was part of the City of Nedlands?---Yes, correct.

And I should have been disclosed in your annual return for this year?---Yes.

10

Any reason why you didn't?---Mistake.

A mistake?---M'mm. I did put this one, I did put the [REDACTED]

[REDACTED].

15

[REDACTED], is that another new property you acquired?---If you ask me a few times whether settled or not, is this one.

No, the one I've been asking about is [REDACTED]?---[REDACTED] is this one, is the [REDACTED] one, the same.

20

It's two different streets?---Yes, they are joined together.

They are joined?---Yes.

25

What is the address, [REDACTED] or [REDACTED]?---I intended it to be the same.

What is the correct address?---[REDACTED] and [REDACTED] is the same property.

30

Information that the Inquiry has is that you own an apartment at an address of [REDACTED] [REDACTED] in Perth, all right?---Yes.

Do you have - I can take you to the next annual return in which you have indicated that you've got an apartment or unit [REDACTED], Perth in your list of real property. So why then have you given a different address for that same property in this particular annual return?---Once this property was settled, I immediately gave to the property managers so I even myself forgot about the address. I only knew at the corner of [REDACTED] and [REDACTED].

35

40

So when you wrote down [REDACTED], where did you get that address from?---I searched myself online.

Why didn't you just look at the documents in relation to you purchasing this off the plan?---The bundle at that time was not in office.

45

It's important to get the correct address, is it not?---Yes.

So how much attention did you pay to that?---Didn't pay details - didn't pay attention to details.

5 No, and these annual returns are supposed to have accurate and correct details?---Yes, correct.

And we are finding a lot of mistakes in your annual returns, aren't we?---Yes.

10 So again I'm going to ask you, how carefully did you complete these returns?---Not so careful.

So for this annual return you have, do you see there at the bottom of the page, listed the fact that you are a registered migration agent?---Yes.

15

So it took your fourth return before you disclosed that. That's right, isn't it?---Yes.

Why did it take you so long?---Slow learner.

20 For 2013/2014, did you have any other income sources yourself?---Rent.

As an individual. There's rent, yes?---Councillor's position.

25 Yes, but what other sources of income that you're required to disclose?---Did I say rent?

Yes?---Yes.

30 We will help you out here, we will go to 0958 now, Madam Associate. "Sources of other income", "Identify of persons: Lily Chen and David." "Describe circumstances: rental income from four properties in [REDACTED]." So this is the first time that you've disclosed that you were receiving rent from those properties but you were certainly receiving rent from those properties at least a year or two earlier?---Correct.

35

So you have declared that, but what other sources of income should have been written there? Any others?---The income from the discretionary trust.

40 That's there. Do you see down there, number 3, "Trusts." I'm just staying with the one that says (c), "Sources of other income"; anything else, any other income that you were receiving that was more than \$500 between 1 July 2013 and 30 June 2014?---The commission from schools.

The commission from schools?---That one is part of Wayon Pty Ltd's income.

45

You're saying that you were advised by your accountant that you didn't have to disclose that?---No, he didn't say. He disclosed - he put it into the tax return.

So you're saying that you should have disclosed that then?---No, no. Is part and parcel of the Wayon Pty Ltd for the commission. That one is part and parcel of the Wayon Pty Ltd, the commissions paid.

5

Tell me, was that a source of income that you should have disclosed on this particular annual return?---No, because that one is a source of income from Wayon Pty Ltd to us.

10 But you haven't stated that?---On the first page.

No, you haven't. Go back to 957, if we can, Madam Associate. You've only written down, "Wayon Pty Ltd trading as Lily Chen & Associates" and the, "Name and address of employer"?---That is part of the income source.

15

No. Wayon Pty Ltd is the entity that owns your firm, Lily Chen & Associates, isn't that right?---That's correct.

20 The income you were receiving from these tertiary institutions did not come from your position at Lily Chen & Associates, did it?---It is part of the company's income.

No, that wasn't the question?---Please repeat.

25 You weren't earning that income as either a solicitor or Councillor or registered migration agent in your work at Lily Chen & Associates, was it?---Yes - no.

So it should have been declared as a source of other income, shouldn't it?---Yes.

30 So what other sources of income should have been declared there?---Cannot recall.

If we go now to 959 - before we do that, were there other sources of income that you were receiving in this financial year?---No.

35 Sure about that?---Yes.

959 then. Go down to 7, see, "Debts: not applicable." Are you saying you didn't have any debts for the financial year 2013/2014?---Should have.

40 You should have?---M'mm.

Why haven't you written down - was the lender or creditor a bank?---The bank, the banks.

45 Any reason why you didn't write that down?---I did write it down before, put down Westpac.

Are you saying that because you'd written it down before, didn't mean you had to write it down again?---Should write it again.

You should write it again?---M'mm

5

[12.45 pm]

Ms Chen, it's the case as a matter of fact that you don't have to disclose a previous debt if you've already disclosed it?---Yes.

10

But any new debts, it would seem from reading the Local Government Act, you need to disclose that?---Okay.

So did you incur any new debts for that 2013/2014 financial year?---I cannot remember.

15

Madam Associate, if we could go to the next annual return for 2014/2015, 17.0961, thank you. TRIM number, sir, 17921.

20

COMMISSIONER: Thank you.

MR URQUHART: So you've got there a new property, do you see the third one down under, "Real property"?---M'mm.

25

████████████████████?---Yes.

Was that a property you had bought and the building was already on it?---Maybe still off plan.

30

Still off plan? Do you know if it was or not?---Should have been off plan.

The ██████████ property that I have been asking you about, it seems you've still described that as at ██████████, do you see that?---Yes.

35

What is in fact the correct address?---Should be ██████. Now I - correct address should be ██████████.

Because by this stage, the property had well and truly been completed, hadn't it?---Yes. Should be August or October 2014, I just saw previous return said.

40

"Income sources" now. You've added another income source there, have you?---Yes.

Ocean King, Perth?---M'mm.

45

What's that?---A gift shop.

A gift shop?---Four shareholders, that had suffered a loss.

Were those four shareholders part of a company that owned the gift shop?---Yes - only one shop and it suffered a loss.

5

So did you hold a position within that company?---Only a shareholder.

That's an interest in the company, isn't it?---Yes.

10 If we go to 0963, thank you, Madam Associate, whilst you've declared your position as vice president with the Migration Institute of Australia, do you see that?---M'mm.

You haven't indicated your interest in Ocean King, have you?---No.

15

But you have instead put that under your income sources?---Yes.

Do you agree with me it should have also been added there in, "Interests and positions in corporations"?---Should.

20

If we go now to 0962, please, "Sources of other income", do you see that?---Yes.

All you've done is just list the rental properties again, or rental income?---Yes.

25

So nothing from your other income sources?---Yes.

Is that right?---Correct.

30 These commissions you were receiving or the introductory fees you were receiving from these tertiary institutions, for example?---No tertiaries paid to me.

Sorry?---No tertiaries paid to me.

35 That wasn't your evidence this morning?---Is only a college and Bupa, Stanley College and Bupa, that's it.

What was the second one?---Bupa.

40 I see. So Stanley, that should have been disclosed, shouldn't it?---Yes.

As a source of income. Why wasn't it?---The same mistake as the previous one made. I considered that is part of the Wayon Pty Ltd company's income.

45 And Bupa, same explanation, is it?---Yes.

If we go now to the final return that the Inquiry has records of and this is for the 2015/16 financial year. Madam Associate, 0967, thank you. TRIM number, sir,

17919.

COMMISSIONER: Thank you.

5 MR URQUHART: You've listed seven properties there under section 1?---M'mm.

And see item number 6, "[REDACTED]", so for the first time you give it in your returns, the correct address, is that right?---Yes.

10

It gets confusing though, doesn't it?---Yes.

Then there's an additional property that you've listed from Queensland?---Previously already listed.

15

Was it? All right. Was there another property that you purchased with your husband, an apartment at [REDACTED]?---Yes, afterwards, after that date. It's also off a plan.

20 It was also off the plan?---Yes.

So you bought that end of 2014 off the plan, does that sound right?---Possible.

25 But it still hadn't been completed during the financial year of 1 July 2015 and 30 June 2016?---Yes. Normally would take two years. Once it's settled, I would disclose.

30 If we go over the page - sorry, Madam Associate, if we could go back to 967 for a moment - it's still there, thank you. Your income from an occupation, you've just listed, "Principal solicitor" there?---M'mm.

Not migration agent?---Yes.

35 Why is that?---No idea. Few times I already put it down.

And a few times you haven't?---Yes, three times now.

Should you have put it down?---Yes, correct, and a Councillor as well.

40 With due respect to you, Ms Chen, I don't think you are required to do that if you're receiving income as a Councillor?---Yes, but always did in tax return.

I'm only interested in the annual returns?---Okay.

45 Because what should be in your tax returns if it's required to be in your annual returns, it should be noted in your annual returns, shouldn't it?---Should.



Because the City doesn't get access to your tax returns, does it?---It doesn't.

5 If we go over the page now to 968, thank you, Madam Associate, "Sources of other income", that's just been left blank or just written not applicable, "N/A", do you see that?---M'mm.

10 Should have you written in there any sources of other income that you had not previously disclosed?---All disclosed if it's a trust. Source for other income, yes, as previously I acknowledged it, the commission from Bupa and Stanley College.

Anyone else?---Ocean King but that is negative, no income.

So any others?---No. Global Australia Pty Ltd is not operative.

15 But were you receiving an income - - -?---Rental.

Rental, yes, you've already disclosed that, but something that you haven't disclosed thus far? Was there a source of income that you were receiving far in excess of \$500 a year that should have been disclosed there?---Which one? I cannot recall.

20 I'm asking you, Ms Chen?---I cannot remember.

If you were receiving amounts of tens of thousands of dollars, you would remember that, wouldn't you?---Yes, I would.

25 So there's a clue. You were receiving from another entity that you haven't identified yet, significant sums of money?---Which one?

30 No, I want you to tell me that. I'm giving you an opportunity of telling us?---Which one? I have no idea which one.

If you were being paid by an entity - you know what the word "entity" means?---A company or - - -

35 A company, yes, that will be do?---Yes.

40 If you were being paid by a company tens of thousands of dollars for the work that you're doing for that company, I would expect you to remember that. It's significant sums of money, not the odd \$1,000 here and there from Bupa, Stanley College or any of the other institutions. You've got no idea what I'm referring to?---You're talking about a development company?

You tell me?---There is a development company and they owe me a lot of money.

45 A development company?---Yes, until now, still.

A development company owes you a lot of money?---Yes.

5 I'm talking about a company that has paid you - paid you fees for the work that  
you've done for them; any of those companies?---I cannot remember, unless they  
are clients. If they are clients, yes, we have fees and costs agreements. If not  
clients and I only have one development company, they ask me to invest the  
money into their developments and the developments fell apart, so the money all  
trapped.

10 What development company is this?---This is Devwest.

Devwest?---M'mm.

15 You've made a reference to a bell this morning during the course of your evidence,  
do you remember that?---Which one?

You said, "That rings a bell", do you remember when you were giving your  
evidence? Never mind. I think you might have been saved by the bell now,  
Ms Chen, because it's 1 o'clock?---Okay.

20 We might explore that area a little more. Okay?---Okay.

Good.

25 COMMISSIONER: Would 2 pm suit you, Mr Urquhart?

MR URQUHART: It would, perfectly, thank you.

COMMISSIONER: I will adjourn the Inquiry until 2 pm.

30 **WITNESS WITHDREW**

**(Luncheon Adjournment)**

35

40

45

HEARING RECOMMENCED AT 2.00 PM.

**MS Lily CHEN, recalled on former affirmation:**

5

COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

10 Ms Chen, we spent a great deal of time going through your primary returns and then your annual returns in the hour before lunch, didn't we?---Yes.

Do you still maintain you took your obligations seriously to be completely accurate with your annual returns?---There were missing pieces.

15

The question is, do you still maintain you took your obligations seriously to be completely accurate when you completed your returns?---Didn't.

No, you didn't, did you?---Yes.

20

But you told us before I took you through those returns that you did?---Yes - no, sorry. No.

But you did say before I identified all those errors in your returns, that you did complete those returns accurately?---Not accurately.

25

No, but you said that you did. Your evidence was that you did complete them accurately?---Just not annual returns not accurate.

30 When I asked you how serious did you regard your filing of annual returns to the City of Perth, you said, "Very seriously"?---In terms of completing?

Yes?---But not with accuracy.

35 I asked you and you said you were accurate and you did take your obligations seriously and now that we have gone through all those returns, it's clear that they are not accurate and so therefore I'm now asking you, that you didn't take your obligations very seriously at all, did you?---Yes.

40 You see, do you agree that you should take seriously a notice to produce from this Inquiry?---Yes.

That should be taken very, very seriously, shouldn't it?---It should.

45 Do you remember receiving a notice to produce from this Inquiry in March of this year? Not July, because we have been through that one, but in March of this year?---Yes.

5 Requiring you to produce every source of income of \$500 or more for the financial years 2015 and 2016/17, except for payments to you by the City of Perth, income from your occupations or income from a trust. Do you remember that notice to produce?---Yes.

Did you instruct your lawyers to produce a document in response to that notice to produce?---Yes.

10 And that document disclosed your rental income from the investment properties you own, isn't that right?---Yes.

15 And nothing else. It didn't disclose any other income that you were required to disclose, apart from payments by the City of Perth, income from your occupations, or income from a trust?---Yes.

You didn't disclose everything to the Inquiry, did you?---Yes, correct.

20 Because that wasn't the only income you received that you had to disclose to comply with the notice, there was other income that you had earned over those two financial years?---Yes.

25 So why didn't you disclose those?---I - until today you mentioned it to me, I just remember.

Ms Chen, I didn't mention anything to you. You were the one who nominated those other sources of income. I was very careful not to help you out. So why was it that you only disclosed your income from rent when you were required to disclose income from other sources?---Mistake.

30 Why? Why did you make that mistake?---Didn't recall that one.

But you recalled them this morning?---Yes, I just remembered.

35 This is back in March. You recalled the payments you received from Bupa?---Yes.

40 You recalled the payments you received from Stanley College, there's two already?---Yes. The other one is more closer to date.

What's more closer to date?---Like, Bupa like probably this year also paid. Stanley College is not, probably last year.

45 Stanley College was in 2015/16 and 16/17, wasn't it?---Yes, possible.

Did you check?---I didn't check.

Why not?---Because I still talk to the directors or principals of the school, so that's why I remembered they did pay me. Bupa is on continuing basis.

5 I just want to know why you didn't comply with the notice to produce?---There's no reason.

No reason?---Yes.

10 But you know the importance of complying?---Yes.

Do you not?---Yes, I know.

15 So what income did you not disclose as you were required to do under the notice to produce?---Commissions.

Commissions from where?---From a developer.

From a developer?---Yes.

20 Let me guess, would that be Devwest?---Correct.

Why didn't you disclose those?---That one is like a case by case basis, not regular.

25 Sorry?---Not regular income.

I'm going to show you this notice to produce and can I suggest you consider your evidence very carefully, Ms Chen. Madam Associate, 17.1165. I want you to show me where it says that you only had to produce regular incomes, okay?---Okay.

30 Because it's not there. There's the first page, addressed to you, isn't it?---Yes.

35 You had to produce these documents on or before 15 March 2019 at 4.00 pm, do you see that in bold type?---Yes.

Let's go over to Schedule B and that's what you were required to produce?---M'mm.

40 Can you see that?---Yes.

Do you see the periods, the two financial years for 15/16 and 16/17?---Correct.

If you received income of \$500 or more?---Yes.

45 And then you got more help from the Inquiry as to what all means, do you see that in paragraph 3?---Yes.

You had to say a description of the nature of the income received, for example, whether the income was in the nature of rent, interest, dividends, commission payments, bonuses or fees, do you see that?---Yes.

5 And a description of the source, for example, if the income received was, and then do you see, (iv) right in the middle of the page:

10 *A commission, payment, bonus, fee or other payment however so described, the name or identity of the person or body that made that payment to you, including the circumstances that gave you rise to you receiving the income.*

Just to help you out further, the Inquiry defined what income included, do you see that?---I saw it.

15 :

20 *Any rent that you receive in relation to any real property that you owned; any interest that you earned from any moneys deposited with financial institutions; any dividends paid to you in relation to any shares or other security interests that you owned; and any commission payments, bonuses, fees or other payments howsoever described that you received.*

25

Then over the page, 1168, thank you, Madam Associate:

30 *an But does not include any fees or allowances paid to you or expenses reimbursed to you by the City of Perth in connection with your role as Elected Member; any incomes that you received from your occupations or any income that you received from a trust.*

Do you see that?---Yes.

35 You have now told me that you were required to disclose, it would seem, some sort of commission payments you were getting from Devwest, is that right?---Yes.

Just to make it abundantly clear, what you have provided to the Inquiry from your lawyers, 17.1169 - incidentally, sir, that last document was TRIM number 17904.

40

COMMISSIONER: Thank you.

MR URQUHART: This one is 17903.

45 COMMISSIONER: Thank you.

MR URQUHART: Do you see that? This is what you instructed your lawyers to

do, didn't you?---Yes.

Paragraph 2 or number 2:

5                    *Please find enclosed annexure A, the statement of information on behalf of Councillor Chen required by the SOI notice.*

We don't need to go there but annexure A just had all the income you received from your rental properties, isn't that right?---Yes.

10

So why did you not disclose these commission payments you received from Devwest?---No excuse.

Of course there's no excuse. I want to know why?---Didn't know why.

15

You don't know why?---Yes.

Of course you know why, so let's hear it. Why didn't you?---Forgot about it.

20    How could you possibly forget about it? This is a requirement for you to produce. It's an order from a body that has the powers of a Royal Commission?---Not intentionally.

Of course it was intentional. What other explanation is there for it?---No excuse.

25

No excuse, I know that but I want to know why you refused or decided not to disclose it to the Inquiry?---Didn't intend.

What were you intending to do?---Should have disclosed.

30

I know. You were intending for the Inquiry not to find out about it, isn't that right?---No, that is not the truth.

35    How seriously did you take these obligations of your requirement to produce this material? For heaven's sakes, Ms Chen, you are a lawyer?---Yes.

You just can't ignore a notice like this, can you?---Cannot.

But you chose to ignore it, didn't you?---Didn't intend to.

40

I'd like to know why then did you not disclose the commission payments you received from Devwest during those two financial years, because it was a lot more than \$500, wasn't it?---More.

45    Yes, so why didn't you?---Yes. This is 2015/2016/2017, probably didn't receive any and also - - -

You did?---2015?

You did. Ms Chen, I'm telling you, you did?---I couldn't remember.

5 Why didn't you check?---I should

[2.15 pm]

Yes. Why didn't you?---I didn't check.

10

Why didn't you?---No reason.

The reason is you did not want the Inquiry to find out about the commission payments you were receiving from Devwest, isn't that right?---No.

15

And you didn't want the City of Perth to find out about those commission payments either, because you did not mention Devwest in one of your annual returns, did you?---I didn't, yes.

20

And the reason why that is is because you didn't want the City of Perth finding out about that either, isn't that right?---No.

Why didn't you disclose the fact that you were receiving income from Devwest in your annual returns?---No excuse.

25

I know there's no excuse, I want to know why you didn't do that?---I had no reason.

Yes, did you have a reason, didn't you? You didn't want anybody to know about the fact that you were working for a property developer, isn't that the case?---No.

30

That's my explanation, have you got a different one?---Just they ask me to help, I just helped and then in return with a commission payment.

35

I know all that. Don't worry, I've known all that all along?---M'mm.

So has the Inquiry?---Yes.

I want to know why it was that you were not disclosing what you were supposed to disclose first to the City of Perth and then to the Inquiry? I want to know why and I'm not going to let go of this, Ms Chen?---I understand, but - - -

40

And I don't want to hear the response, "I should have, I didn't, I forgot." I want to know the real reason why and bearing in mind, you are obliged to tell the truth, so let's have the truth regarding this, please?---I just didn't.

45

I know. I know you didn't, I've known all along you didn't. I want to know



why?---No reasons for me. No reason, no excuse.

I know there's no excuse but there has to be a reason why you deliberately chose not to tell the Inquiry about this source of income?---I didn't - - -

5

When the Inquiry made it abundantly clear this is precisely the source of income it was seeking to find out?---That is mistake.

I know it's a mistake, I want to know why you deliberately made that mistake?---I didn't deliberately.

10

Come on, Ms Chen, you did?---Didn't.

You did. You didn't want the Inquiry to find out, did you?---No, is already under Inquiry should tell everything if I knew. Must respect.

15

And you didn't, because you wanted to conceal something?---Should not.

Why did you want to conceal these commission payments first from the City of Perth and then from the Inquiry?---Didn't intend to.

20

Why? Why did you want to conceal that information?---Not intentionally.

It seems very intentional to me that you didn't disclose to the City of Perth when you should have, and then you didn't disclose it to the Inquiry when you were compelled to do so. That sounds like intention to me. So why?---Didn't intend.

25

COMMISSIONER: Ms Chen, you've been taken very carefully and very slowly through this notice to produce?---Yes.

30

You're a lawyer?---Yes.

That notice to produce clearly requires you to produce the information related to, among other things, commission payments?---Yes.

35

Doesn't it?---Yes.

That would have been apparent to you at the time that you got the notice, wouldn't it?---I got.

40

It would have been apparent to you at the time you got the notice, wouldn't it?---Yes.

And you knew at the time you got the notice that you had, in those years, received commission payments from Devwest, didn't you?---Yes.

45

So put those three things together: it would have been obvious to you that you

should have told this Inquiry, me, about the commission payments, shouldn't it?---Should.

5 And therefore, I am finding it very, very difficult to accept your evidence that you did not withhold that information deliberately. I'm finding it very difficult to come to any other conclusion?---Genuine to my heart, swear to my God - - -

10 Please. You have taken an oath and that sort of comment makes no impression on me whatsoever. What I do want you to do is tell me the truth now. I've given you three propositions with which you've agreed?---Yes.

I've explained my difficulty in understanding your evidence in light of those three propositions?---Yes.

15 It seems to me at the moment that you have withheld that information deliberately. This is your chance to give me an honest answer?---The honest answer is, I didn't in my mind intentionally to hide from you and the Inquiry. This is the truth. You cannot put words in my mouth and force me to admit something I didn't deliberately.

20 I'm not putting any words in your mouth, I'm explaining to you what I'm thinking and why I'm thinking it and I'm giving you an opportunity to tell me the truth?---This is your perception, not me.

25 No, it is not my perception. I - - -?---I didn't intend.

30 Don't interrupt me, Ms Chen. Do not make that mistake. I'm going to give you one more chance to tell me the honest answer to my question, please: did you withhold that information from this Inquiry deliberately?---No.

Very well. Mr Urquhart.

MR URQUHART: Thank you, sir.

35 Did you deliberately withhold it from the City of Perth in your annual returns?---Didn't.

40 No? So that's just a coincidence, is it?---If now ask me to write an annual return, I would put everything in.

Did you disclose it in your tax returns?---That I'd have to ask my accountant.

45 I'm asking you, did you disclose it in your tax returns?---I didn't do the return myself.

Did you tell the accountant about these commissions were you were receiving from Devwest?---Yes.

Are you sure about that?---Yes.

So these payments should be in your tax returns?---Should be.

5

Why didn't you check your tax returns before you answered the notice to produce in March?---Please, question again?

10 You heard the question. Why didn't you check your tax returns?---I only paid the accountant, I didn't check myself.

Why didn't you?---Just leave that financial to accountant.

15 No, no. With this notice to produce, why didn't you check your tax returns to find out what your sources of income were for those two financial years?---I clearly remember, you know, the rent is obvious.

20 Yes?---And then commissions paid by - you know, continuously paid by the college and Bupa and I supposed to remember Devwest because this is the case, why individual case by case basis, not directly to my attention. That was probably why I didn't put it into.

Can you answer my question now?---Please, again?

25 You want me to ask the question for a third time?---Sorry for that.

You want me to ask the question for a third time?---Yes, please.

30 Why didn't you check your tax returns for these financial years so you would be able to give a full and frank account to the Inquiry as to your sources of income for those two financial years?---It was my mistake.

Why didn't you check your tax returns?---Why?

35 Don't repeat the question after me. Why, yes. So six times now that question's been said, five times by me, once by you. Why?---No reason.

No reason?---Yes.

40 Why didn't you, that way you could find out what exactly were your sources of income for those two financial years?---Negligent.

Why didn't you check it though?---I didn't check.

45 Yes. It's the obvious place to check, isn't it?---Supposed to be, yes.

Are you sure these commission payments are on your tax returns?---I didn't check,

I have to ask my accountant.

Are you sure they are, was the question?---Not sure.

5 I've got a feeling they are not, might I be right in that?---No idea. My accountant knew.

I've got a feeling they are not?---My accountant knew.

10 COMMISSIONER: Ms Chen, what's the name of your accountants at this time, please?---What's that?

What is the name of your accountants?---Henry & Associates.

15 Harry?---Yes.

Spell it, please?---H-e-n-r-y & Associates.

Is that the full name?---Yes.

20

Thank you.

MR URQUHART: Where are they?---South Perth.

25 What address?---Cannot remember the address.

How long have they been your accountants for?---For quite a few years.

Have they always prepared your tax returns?---Yes.

30

Have you always disclosed to them all your sources of income?---Maybe some time miss some.

So you've missed the Devwest ones?---Some of them, they knew, some of them they did not.

35

Why? Why wouldn't they not know about all the Devwest income you've received?---Probably didn't disclose to my accountant.

40 Why?---No reason.

No reason?---Yes.

45 Aren't you supposed to disclose all your sources of income to your accountant so that they prepare a correct tax return on your behalf?---Yes, correct.

So why haven't you disclosed all your sources of income to your accountant for

that purpose?---No excuse.

5 What is the - why the secrecy around not disclosing all the payments you've received from Devwest?---I think it's because they owe me money. They owe me \$1 million, that money is not mine, it's from the bank and then I have to pay the bank's interest.

10 I'm not interested in the loan that you've given Devwest, I'm interested in the commission payments Devwest paid you on a regular basis for a number of years. I want to know why it is that you haven't disclosed those in their entirety to even your own accountant?---Not on regular basis.

15 Doesn't matter what they are, whether they are regular, irregular or otherwise. You have not disclosed any of these payments to the City of Perth or to the Inquiry as you were required to do and now your evidence is that you haven't even disclosed all of those payments to your own accountant and I would like to know why that is the case?---I would have missed one or two.

20 Why the secrecy?---Is no secret.

Not any more?---Yes.

25 Now that I've asked you about it, but you tried to keep it a secret, didn't you?---Is on the Devwest return.

You tried to keep it a secret from the Inquiry, didn't you?---Not deliberate.

And you tried to keep it a secret from the City of Perth?---Not deliberate.

30 Not deliberate?---No.

Why? Why wouldn't you disclose these payments? What are they? What are these payments all about, Ms Chen?---It's a commission.

35 For what?---For refer investors to them.

Refer investors to them?---Yes.

40 And what else?---Nothing else.

What other payments are they giving you?---They agreed, they say "If you refer investor to us, we will pay the commission to you."

45 What commission was this? How much?---Three and a half clients.

3.5 per cent?---No, no. Is 5 per cent.

5 per cent?---Yes. They have three clients. Another one is a client, the commission split between the client and myself.

5 You've always remembered this, haven't you?---Today, when you brought up, yes, I remembered. During lunch I try to refresh my memory, yes, I recalled now.

So you remembered it back in March when the Inquiry gave you that notice to produce, didn't you?---No

10 [2.30 pm]

You didn't?---I didn't think about it, that's why. I missed.

15 You conveniently forgot about that, did you?---You could say that.

I am saying that, do you agree?---Okay.

You conveniently forgot, didn't you?---Yes.

20 And you conveniently forgot about it when you were filling out your annual returns for the City of Perth?---Didn't intend.

But it is convenient for you, isn't it?---Possible.

25 It is convenient for you as a Councillor that the City of Perth didn't find out that you were on the payroll of a major property developer?---Not on the payroll.

30 Well, getting paid by a major property developer. It suited you for the City of Perth not to find that out, didn't it?---No.

You don't agree with that?---No.

Why don't you agree with that?---They are not major developer.

35 Property developer then?---Yes, correct.

40 They have got any number of property developments ongoing at any one time, Ms Chen. In my view that makes them a not insignificant property developer. So it suited you, didn't it, for the City of Perth not to find out that you were being paid commissions by a property developer, isn't that right?---No.

You don't agree with that?---City of Perth can know and especially when - - -

45 How can they know if you don't complete it in your annual returns? How can they know? How can they possibly know that you're receiving income from a property developer if you're not declaring it on your annual returns?---They will know when - if any Planning Application come to Perth - come to City of Perth, I have to

declare my interest.

You're supposed to declare?---Yes.

5 But you wouldn't have though, would you?---No, should - must.

You should. I know. You should have done a lot of things, Ms Chen, that you haven't done, so why should you bother declaring that interest should a matter come up in the City of Perth?---As a financial interest, must be disclosed.

10

But you haven't disclosed so many things that you were supposed to disclose, why would you be expected to disclose that?---My mistake, didn't disclose in annual returns.

15 Yes?---Yes, to the City and to the Inquiry, that's correct.

So you could make that same mistake by failing to disclose your interest should a matter come up at the City involving a Devwest development, couldn't it?---No.

20 It could, no?---Shouldn't have.

Could be quite easy, it would just be another mistake that you've made, isn't that right? I will pose the question to you again: it was in your interests, wasn't it, for the City not to find out about the relationship you have with Devwest?---That's not true.

25

It was in your interests though, wasn't it?---City of Perth doesn't care and - not City of Perth doesn't care, if City of Perth knew, is no harm to me. I hope I put that right.

30

I've got no idea, I'm lost?---Okay.

I would have thought this question, there's an obvious answer to this question and that is it would be in your interests for the City not to know of this close relationship you had with Devwest?---No.

35

No, you don't agree with that?---No.

Is it in your interests or was it your hope that the Inquiry wouldn't find out about the relationship you had with Devwest?---No.

40

It wasn't in your interests?---No, only damaging.

You do know that annual returns can be the subject of an application under the Freedom of Information Act, don't you?---Yes.

45

Is that why you didn't disclose the payments you were receiving from Devwest in

your annual returns?---No. I didn't think about it that way.

You didn't think about it?---M'mm.

5 During your time as a City of Perth Councillor, you had a number of bank accounts in your name, didn't you?---Again, sorry, counsel?

Sorry?---What is the question? I look at that one, so I didn't - - -

10 What were you looking at?---I look at this one.

We can take that down now unless you want to say anything else in regards to what you instructed your lawyers to disclose to the Inquiry under that notice to produce in March?---No.

15 Do you want to say anything else?---Nothing.

Other than this is just yet another mistake that you've made?---No.

20 Is that right, other than it's another mistake?---No.

Madam Associate, we can take that down now. So during your time as a City of Perth Councillor you had a number of bank accounts, didn't you?---Yes.

25 Which banks?---Bankwest.

And what other bank?---Westpac.

30 How many accounts did you have between 2011 and 2018?---Quite a lot.

First with Westpac, how many did you have with Westpac?---Westpac, probably five.

35 Were they two savings accounts?---Westpac?

Yes?---Is all loan accounts.

Maybe you had four loan accounts, does that sound about right?---Maybe more.

40 And two savings accounts with you and your husband?---Yes - offset, I think.

Then with Bankwest?---Bankwest has probably five or something.

45 Five or something?---Five or four or - - -

Maybe more, maybe less?---Yes.



Is your solicitor's trust account with Bankwest?---Yes, correct.

Did you have some business accounts with Bankwest?---Yes.

5 Did you have a Hero transaction savings account with Bankwest?---Yes.

You did?---Yes.

What was that in the name of?---Hero?

10 Sorry?---H-e-r-o?

Yes, Hero, yes. The name of the account, what was the name?---Hero transaction, is a business account?

15 Are you sure?---I'm not sure because now I don't manage the accounts.

This is the Hero transaction savings account?---This should be personal account.

20 It should have been a personal account?---M'mm.

What name did you have it in?---Should be my own name.

What, Lily?---Yes.

25 Not Li?---Li, L-i, yes.

So is that pronounced Lee?---Yes.

30 It is spelt L-i?---L-i, yes.

Before we get on to that one, you also had an account with a Westpac branch in China, didn't you?---Don't have.

35 No?---No.

But you had a bank account in China, didn't you, about five years ago?---Not sure.

You may well have?---Yes, should have.

40 You did have?---I did have one.

That was with Westpac, wasn't it?---No.

45 Who was that with? Was it a Westpac affiliated bank?---No.

So what bank was that?---Chinese bank.

Yes, obviously. What bank?---Let me see, Commercial, maybe.

5 Commercial, and what did you have that bank account for?---That bank account was for when I go to China, to use that money.

So you use that money?---M'mm.

10 Did Devwest ever make a payment into that account?---No.

Are you sure about that?---No.

You're not sure?---I'm not sure.

15 Be careful how you answer these questions, because if you say no, it means that no, they didn't?---Unknown to me.

Unknown to you?---Yes.

20 If Devwest was making a payment into a Chinese bank account of yours, that would have had to have been on your instructions, wouldn't it?---That's correct.

This Li Chen Hero account, what did you use that account for?---For personal spending.

25 Personal spending?---M'mm.

What else?---Family spending.

30 Family spending?---M'mm.

Anything else?---Transfer money.

35 Transfer money?---M'mm.

From where?---From business account.

From the business account?---M'mm.

40 So would the business account deposit money into that account or would it be vice versa?---From business, transfer to the personal.

Anything else, any other payments that that account received?---Some commissions as well.

45 Some commissions?---Yes.

Commissions from where?---Commissions from - not from Devwest, from - - -

Not from Devwest?---No.

5 Sure?---Yes. No.

You're absolutely positive you didn't receive any commission payments from Devwest that went into your Hero transaction savings account?---Not to my recollection.

10

To your recollection, you could be wrong about that?---Maybe.

So if you didn't get commission payments from Devwest into that account, what commission payments were you getting?---I'm not sure about the Bupa, whether the Bupa would pay there - pay to there.

15

That's one, any others?---Sorry, cannot remember. You can refresh my memory.

I want to see how you go yourself?---I can't help.

20

So you were receiving commission payments into that account?---Yes.

But not from Devwest?---No.

25 Maybe from Bupa?---Yes.

But I thought this arrangement you had with Bupa has only been going for a short time?---Bupa?

30 Yes?---Bupa is like on continuing basis.

For how long? When did it start?---Probably a few years back.

How many years ago?---Maybe three, four years.

35

Three or four years?---M'mm.

So that should have been in your annual returns?---Yes. I didn't.

40 And it should have been in your notice to produce?---Yes.

So you didn't disclose any commission payments in either your annual returns or your notice to produce?---Yes.

45 And that is because, your mistake?---Yes.

What business occupied the most of your time, your legal practice or your

migration agency?---Before it was migration agency and in recent years when the law constantly changes, and then my practice shifted to legal areas.

5 Which business generated the most income for you personally, let's say from 2013?---From 2013, so this is migration areas.

Migration, is it?---M'mm.

10 Were the fees charged by your law firm?---Yes.

The fees that you received, was that placed into the firm's trust account?---Correct.

15 What about the fees you charged as a migration agent, where did they go?---They go to trust account as well.

They went into the trust account as well, did they?---Yes.

All of them?---Yes. According to costs agreement.

20 [2.45 pm]

You mentioned at your private hearing examination last month that you assisted people with their visa applications?---Yes.

25 For those migrants who were your clients, what bank account did you use to deposit their fees?---Trust account.

Trust account as well?---Yes.

30 How much would you, on average, charge a client for assisting them for, say, their 187 visa application?---Only for that particular or from a range, fees we charge?

On average?---On average, from \$1,100 up to \$30,000.

35 Up to \$30,000?---Yes.

That much?---Yes.

40 Why would it be that much?---Because it takes so long, normally about two to three years.

So those payments would go into your trust account?---That's correct.

45 Your solicitor's trust account?---Yes.

And you would advise your clients to deposit those moneys straight into your trust account?---Yes.

That Bankwest Hero account, did you also have a cheque book attached to that account?---Used to have.

5 So you could physically write out a cheque?---Yes.

And the amount on the cheque would be drawn from that account?---Yes.

Is that right?---M'mm.

10

Who did you write cheques out to from this account?---Different payments, different people.

15 What would be the amount, give me an example of what you would use cheques for?---From probably \$500 to \$10,000, maybe more - bit more.

\$500 to \$10,000?---Yes.

20 And you said "maybe more", so how much more?---So sometimes maybe - a variety, one amount.

How much more ---From few hundred to few thousands to - up to probably \$10, \$20,000.

25 What would those \$10,000 and \$20,000 cheques be for? What would they be for? Who would they be paid to?---With different people.

Yes, I know, who?---Business people and friends and then people I owe money.

30 Business people?---Yes.

And friends?---Yes.

35 You would be paying friends a cheque of \$20,000?---Those ones not friends.

What are they?---So small amount of money, for example, this one, purchase or sell the products, like beauty products, health products.

40 Are these the few hundred dollar cheques?---These ones up to few thousands, up to \$5,000.

I'm interested in the \$10 to \$20,000 ones?---\$10 to \$20,000, so is - - -

45 Who are they to?---A variety of people.

Tell me?---Not particularly one or two I remember.

Who? Who are these variety of people? You said business people?---Yes.

So is this work?---Yes.

5 What work was this that involved you writing out cheques to business people of upwards of \$20,000?---I can't remember particularly to whom.

What sort of business people were these?---Actually, I didn't.

10 Actually you didn't?---Yes. I don't clearly remember who are they.

At all? Do you remember writing out cheques for \$20,000?---Cannot remember but I think I did.

15 You think you did?---Yes.

You've got no idea what those cheques were for?---Who are they?

You've told us, they were for business people?---Yes.

20

So why would you be writing out a cheque for a businessperson in the sum of \$20,000?---Cannot remember.

I want you to try. Who were they? What business was it?---I think one is - - -

25

What business was it?---What business?

What's this business that you're doing that requires you to pay \$20,000 cheques to business people from your personal bank account?---I can't recall for which purpose.

30

You cannot recall a single purpose or a single cheque, the reason why you would make out a single cheque for that sum of money?---I remember I did write cheque.

35 You wrote a lot of cheques, Ms Chen, for substantial sums of money, what were they for?---I cannot remember.

You can remember?---M'mm.

40 What were they for?---Sorry, now I cannot - let me think about it, recollection. Was instructed to by some of the clients.

Instructed to by some of your clients?---Yes.

45 What clients were these?---Migration client.

Migration client?---M'mm.

And who were you to pay this money to?---To whoever they ask me to pay to.

5 Where would this money come from?---Some of the clients' relatives and some is clients themselves.

10 This was going through your Hero account. I thought you told me that your clients paid money into your trust account?---Yes. Whether it is my costs agreement service fee go into the trust account.

Were these clients of yours in your migration agency, or were they clients of a different sort?---Those clients, they pay the costs agreement fees into our trust account, according to the costs agreement.

15 But these are costs for your migration agency services, so what's this other money?---This is not for my service fee.

What is it?---They instruct me to pay to certain people, then I just paid.

20 So they would put money into your account?---Yes, instructed me to pay and including also department fees as well.

As what, sorry?---Department fee, Immigration Department fees.

25 I'm not interested in those. I'm thinking they are not very much?---Is third party - it's very expensive.

30 So these sums of money that your clients paid you had nothing to do with your - - -?---Services.

Okay. So did you charge a fee for doing this for them?---Not - no, no charge, because all paid into trust account for my service fee, apart from third party fees.

35 You've just told me that they pay this money into your Hero account?---M'mm.

That's not your trust account?---Yes, that is not my service fee. It's not paid to me, although it go to my bank account.

40 So they put money into your account?---M'mm.

And then you would pay that money to somebody else?---To third party, yes.

45 Why did you do that?---Because the client, they don't want to - some of them, or one of them is overseas, another one is here and then is not paid by her, and then paid by someone else, and then they put it into my trust - not my trust account. Because it's a third party fees, including all third party fees, they put it into the personal account for me to pay on their behalf.

Why did you agree to do this?---For the client's convenience.

For the client's convenience?---M'mm.

5 What convenience was it for you?---Not convenience for me, it's very damaging to me.

10 Why is it damaging to you?---Because I could not explain what are they, why in my personal account.

So why did you do it?---It's not good practice.

Why did you do it?---It's wrong.

15 Why did you do it?---I just try to please the clients.

Were you paid a commission for this as well?---No.

20 Are you sure about that?---All the fees paid into trust account is my fees.

I'm not talking about a trust account. So they paid a fee for you to do this, into your trust account, did they?---No.

25 No?---That is clearly white and black into our costs agreement.

All right, but - - -?---It's a just a help. Because they already they clients, they want you to do other things and then you just help them without charging a further fee.

30 So they would put money into your Hero bank account?---Yes.

And then you would write out a cheque?---Yes.

From that account?---Yes.

35 And give it to a third party?---Yes, different parties.

What sort of amounts are we talking about?---From few thousands to, up to \$10,000.

40 Why did they want you to do this?---Is for their convenience, as you say.

I know, but what was it that was their convenience?---They just think this way and it's easier for them.

45 Someone with a suspicious mind would think this is the money laundering?---No.



I know, that's someone with a suspicious mind. Do you know what money laundering is?---Yes.

On the face of it, it sounds like it?---Actually, it's not.

5

It's not?---M'mm, because not many instances, only a few, one or two.

So just one of two instances of money laundering?---It's not money laundering, it's just instructed me to pay third parties.

10

Are you saying you only did this once or twice?---If you use your way, to scare - -  
-

Ms Chen, we have got your bank account details?---Yes, I knew.

15

Would you like to reconsider your evidence when you said that you only did this once or twice?---If the scare is probably - - -

Would you like to reconsider your evidence when you said you did this once or twice?---Let me think about it and be more accurate. Two to three times and then other instances is - - -

20

What are the other instances?---Other instances are use the credit card to pay for them, so that money would go to my credit card, rather than to pay the credit card debts, rather than - because I use the credit card to pay for them, for third party

25

[3.00 pm]

30

35

40

45

Did you receive cash deposits into this account?---Yes.

Who were they from?---Usually the same, the clients would put money into, asking to pay to third parties.

5 What amounts would these cash deposits be?---Different amount.

How much? What's the biggest amount?---Biggest amount, probably \$15,000 or \$20,000.

10 Or maybe a bit more than that?---Probably not at one.

No?---M'mm.

15 And you are saying you're receiving these large amounts of cash so that you could forward them on to a third party?---Yes.

How long have you had an association with Devwest for?---Quite some time.

20 How many years?---Not exactly recall, but, yes, more than five years.

At least eight?---Possible.

How did you come to know the people at Devwest?---Maybe at the functions.

25 What functions?---Cannot remember exactly but probably some functions, social functions.

Can you who it was that you met at Devwest?---Tony Hatt.

30 Spelt H-a-t-t ?---Yes, correct.

Who else?---He has another two partners.

35 Yes, who are they?---Twins.

Yes?---Fergusons.

Yes. First names?---First name, let me think about it. Chad, C-h-a-d.

40 Yes, and Damon, D-a-m-o-n?---Yes, correct.

Who else do you know there from Devwest?---Joyce Li.

45 Li spelt L-i?---J-o-y-c-e.

L-i?---Yes, correct.

Was Mr Hatt and the two Ferguson brothers directors?---Should be, yes.

5 And I think you've known them for at least seven years, haven't you, because you went to a trade and development forum with them in Hong Kong in December 2012, didn't you?---Yes. I was with them, yes, correct.

10 What was the purpose of that trip?---Couldn't remember. Is for some business trip, maybe.

Maybe?---For that forum, yes.

15 So were you going over there to develop the business relationship which you had with Devwest?---Part of.

Is that right?---Yes.

20 Did anybody else from the City of Perth go?---I cannot remember. Cannot remember.

Did you go as a City of Perth delegate?---Really, cannot remember. I did it once with Lord Mayor that time, to attending a City of Perth approved trip.

25 That's right, this is the trade and development forum I mentioned a moment ago?---Yes, to promote education.

30 And you were there to promote your own business interests as well, weren't you?---No. That was applied to the City of Perth, to join the delegation as business delegates.

Yes, and you knew those men from Devwest by then, didn't you?---I'm not sure if that time is the first time. Yes, I could not remember when but I knew them for quite some time.

35 Joyce Li, you introduced Devwest to her?---Yes, that's correct.

Didn't you?---Yes.

40 And she spoke fluent Mandarin?---Yes.

And you said to those at Devwest, "She would be an excellent person" to be employed by them?---She is, yes.

45 Because she speaks fluent Mandarin?---Yes. I recommended her actually to Devwest.

Devwest obtains capital from Chinese property investors for its development

projects here in Western Australia, doesn't it?---Yes.

So how long have you had this business relationship with Devwest with regarding commission payments and the like?---From time to time, like a case by case basis.

5 How many? Should be more than four or five years.

More than four or five years?---M'mm.

Maybe six?---Yes, possible.

10

Madam Associate, could you put up on the screen, please, 17.1943, TRIM number 22793.

COMMISSIONER: Thank you.

15

MR URQUHART: Do you recognise that document?---Yes.

Do you recognise the business card?---Yes.

20 That's your law firm's business card?---Yes.

Isn't it?---Different cards. Finished, then I print a new one and each time the photo is different, the contents edited.

25 This is your business card back in April of 2013, isn't it?---Possible.

What's this? This is a consultant agreement you have?---Yes.

With Devwest?---Yes.

30

We can look at at the date of this document, it's 10 April of 2013, does that sound about right?---Sounds right.

So what was this all about?---As I mentioned before, they want me to refer investors to them and then they pay commission.

35

That might be another agreement we will come to in a moment. I think that's a fund raising agreement. What's the consultancy agreement all about?---Don't know the differences because both looks like, if you refer investor to us, we will pay you a commission.

40

Which one were you being paid a monthly fee?---That monthly fee, I think that is the pay back to me the interest on the loan - not a loan, on the investment I put into and afterwards, they changed it to loan.

45

We will come to that in a moment. I'm just concentrating on the consulting agreement?---I saw.

This was an agreement that you had with them whereby you received a monthly base fee, didn't you?---There's no monthly based fee at all.

5 I'm reading in the terms of this agreement, Ms Chen:

*The consultant is appointed to provide advice to the Trust on capital raising issues for local or international investors.*

10 ?---They didn't pay me monthly fee but they did pay on case by case.

Let's have a look at 17.1944. Sir, I don't know if I said the TRIM number for this.

COMMISSIONER: You have, yes.

15

MR URQUHART: Thank you.

This is the first page of this consulting agreement, "Obligations of the consultant"?---Yes.

20

"Services as the consultant", that's you?---Yes.

:

25

*Is appointed to provide advice to the Trust on capital raising issues for local and international investors.*

?---Yes.

30

Did you do that?---We didn't comply with this agreement.

What was the purpose of having it then?---Yes, afterwards we changed it to, you know, another agreement. I signed certainly two or more than two agreements with them.

35

I know. I've got them all, but I'm just staying with this one for the moment. So you weren't providing advice to the Devwest - bearing in mind we are talking about Hay 263 Pty Ltd as trustee for the Hay 263 Trust, this is on the front page?---Yes, that is the project at the railway.

40

Well, not - are you talking about Railway Parade? It's actually on Hay Street, corner of Olive Street and Hay Street?---Yes.

In Subiaco?---Yes.

45

That's the one?---Yes, yes. I remember that one because I got in trouble there.

The Inquiry knows about it?---Yes.

So this consulting agreement though, let's see. So that first paragraph under, "Obligations of the consultant", it says there:

5

*The consultant is appointed to provide advice to the Trust on capital raising issues for local and international investors.*

?---M'mm.

10

Are you saying you didn't do that?---I did, but they didn't pay me monthly fee.

They didn't pay you monthly?---Yes. They paid monthly interest on the loan - - -

15

Don't worry about the loan, we will get to the loan in a moment. I'm still staying with this consultant agreement. Was this a valid agreement or not?---Not sure because I said to you, signed at least two.

20

You signed this one, was this an agreement for which you were supposed to provide consulting?---Yes.

To the Hay 263 Trust?---Yes, correct.

25

Did you do that?---I did.

And you were paid a fee for that, weren't you?---Yes. I paid a commission, not a monthly fee.

30

I'm just reading from the agreement, Ms Chen?---The agreement - - -

Let me finish?---Okay.

35

The first column there under, "Fees and expenses", you see the subtitle, "Fees"?---Yes.

:

40

*In consideration for the services provided under this agreement the consultant is entitled to receive a base fee of \$2,900 per month. Other fees may be charged with the consent of both parties.*

This was an agreement for you to receive \$2,900 a month, wasn't it?---Yes. Didn't pay in practice.

45

Didn't pay in practice?---M'mm.

I'm thinking you might not have been very happy about that, were you? You

weren't very happy about that, were you, that you weren't being paid?---Because they paid on commission, this is okay.

5 But you did receive payment from Devwest, didn't you, from April 2013 onwards?---Maybe, yes, correct.

Not maybe, definitely?---Yes, correct.

10 Are you okay?---Just when I talk, I should not drink.

COMMISSIONER: In fairness to Ms Chen, just pause for a moment.

MR URQUHART: I was going to, sir?---Thank you. Thank you, I'm okay.

15 Good. So you were receiving a monthly fee at various stages under this agreement?---Yes, they paid a fee.

20 And again, that should have been disclosed in your annual returns, shouldn't it?---Yes, it should.

And also to the notice to produce from the Inquiry?---Yes.

25 We will just go to the final page there at 1946, thank you, Madam Associate. That is your signature, isn't it, above the name, "Lily Chen"?---Yes.

Date of execution, 10/4/2013?---Yes.

And we see it's been signed by Mr Hatt and Mr Chad Ferguson.

30 On that same day, do you remember signing another document?---Cannot remember but I signed more than this.

Yes, you signed a fund raising agreement, didn't you?---Yes.

35 Madam Associate, if we can see 17.1947, please, TRIM number 22795.

COMMISSIONER: Thank you.

40 MR URQUHART: See, fund raising agreement?---Yes.

So what was that all about?---Similar.

Similar?---Yes.

45 Similar in what way?---Like, refer investors to them and they will pay commission.

You get a commission?---Yes.

Have a look at 1948, thank you, Madam Associate. Were you referred to as the facilitator in this agreement? Have a look at the appointment:

5                    *A facilitator is appointed to provide the services. The facilitator accepts the appointment on the terms and conditions set out in this agreement.*

Is that right?---Yes.

10

Then we go to, "Fees and expenses" in the second column, down towards the bottom of 1948?---M'mm.

"Fees":

15

*In consideration for the services provided under this agreement, the facilitator is entitled to the following: the success fee for an initial transaction, the additional fee for an additional transaction.*

20 Can you see that?---Yes.

[3.15 pm]

25 We go now to page 1950 for definitions and interpretation. Thank you, Madam Associate. Do you see there in the second column, about a third of the way down:

*Success fee means as applicable for equity investments, an amount equal to 5 per cent of the amount of the client's equity actually invested in the project.*

30

Do you see that?---Yes.

So if a client was to invest \$1 million, you would receive \$50,000 as a success fee, wouldn't you?---Yes.

35

And those sorts of amounts were being invested in this property development, weren't they?---Yes.

And up to \$1.5 million as well, isn't that right?---Yes.

40

So you were receiving commission fees up to \$75,000, weren't you?---Yes.

And there's no disclosure of this in your annual return which should have been completed as soon as you started receiving those commissions?---Yes.

45

And what, you just forgot?---Invested into super fund.



Sorry?---The commission paid, I invested into super fund.

That might be so but you forgot to declare this as a source of income on your annual returns, didn't you?---Yes.

5

And you're not saying you intentionally did that?---No.

You forgot, did you, that you were receiving commissions up to \$75,000?---Since 2016 or 17, and then to date, I didn't have.

10

I'm talking about the year before that?---Yes, before that, yes, I did.

And you had forgotten about them when you completed your annual returns?---That is a mistake.

15

Had you forgotten?---Yes.

So it was a mistake that you forgot?---Yes, it is - it was, yes.

20

It was a deliberate mistake, wasn't it?---Not deliberate.

Come on, are you sure?---Yes.

25

Because it's a huge sum of money?---Yes, because the government allowed to personally invest into self managed super fund, so that's why that was - when I invest into self managed super fund, was considered as - and paid tax on that, so I didn't disclose now.

30

Are you saying you didn't have to disclose it?---I'm not sure, maybe still have to.

This is a payment made directly to you, isn't it?---Yes. Then I invest it into the super fund.

35

But you still need to declare it on your annual returns?---I should.

So it's got nothing to do with what you did with it afterwards?---Yes.

Insofar as annual returns were concerned?---Yes.

40

So why are you telling me this?---Just to tell me how I used.

Then the additional fee for an additional transaction, we can see that's defined in the first column on page 1950, do you see that, about two-thirds of the way down:

45

*Additional fee means an amount as agreed between the parties.*

So would you be paid additional fees as well if there was an additional

transaction?---Yes. That's never happened.

This additional transaction is also defined as meaning:

5                    *Any subsequent transaction after the initial transaction for a client.*

?---Normally clients, the investors, they only put once for each investor.

10                    Let me go to 1951 and we will just confirm there that you have signed that as a facilitator and you've signed that as an individual, haven't you?---Yes.

That's once more dated 10 April 2013 which was the same date as the other document?---Yes.

15                    So would I be right in saying that under this consultancy agreement and this fund raising agreement, you received a couple of hundred thousand dollars from Devwest?---Yes.

20                    That's an awful lot of money to forget to disclose on your annual returns, isn't it?---Yes.

On 11 April, were you signing an investment agreement?---Yes.

25                    Were you investing in this property development at Hay 263 Pty Ltd?---Yes.

Can you remember how much money you invested?---\$1 million.

\$1 million?---M'mm.

30                    This was all drawn up in an investment agreement, wasn't it?---Yes.

And it was the day after, wasn't it?---I cannot remember the exact date I did invest and also, signed investment agreement.

35                    On this occasion, it was an investment by Wayon Pty Ltd, wasn't it?---Yes.

Your family company?---Yes.

40                    Is that right?---Correct.

So you had invested in a property development as of April of 2013, didn't you?---Not sure is April. I signed probably that year, I'm not sure when I invested into it.

45                    We will have a look then, that's fine. 1953 now, Madam Associate. TRIM number 22792.

COMMISSIONER: Thank you.

MR URQUHART: "Investment agreement, Hay 263 trust. Date: 11 April 2013. Parties: Hay 263 Pty Ltd as Trustee for Hay 263 Trust and Wayon Pty Ltd", do  
5 you see that?---Yes.

Does this look familiar?---Yes.

10 Then we go on to 1954, at the top there:

*The investor agreed to deposit \$1 million into the Trust's bank account  
by 11 April 2013.*

15 Then it gives the Trust's bank account details. Then it sets out that:

*The investor requests all distribution from the Trust to be paid into the -*

20 An account of yours and your husband's?---Yes.

And then we go to 1955. Thank you, Madam Associate. We can see that's been  
signed by you on behalf of Wayon Pty Ltd?---M'mm.

25 And then also signed by Mr Damon Ferguson this time, and Mr Hatt?---M'mm.

So that's the investment that you made into this property development?---Yes.

30 You've always known about this \$1 million you deposited or invested into this  
property development, haven't you?---Yes.

You've never forgotten that?---No.

35 Is this something that you did not want the Inquiry to find out about?---About the  
investment?

Yes?---No.

About this investment that you made?---No.

40 Are you sure about that?---Yes.

It's a building development, isn't it?---I never been there.

45 But it was supposed to be a building development?---Should be.

It was supposed to have residential apartments and also commercial  
premises?---He told me it's mixed.

Mixed, yes, but you knew it was a building development, didn't you?---Yes.

5 Do you remember me asking you about your investments in building developments at the private hearing?---Yes.

On 1 March 2019 - sorry, my apologies, 1 July. Did you give truthful answers to that?---I only answered - yes, I didn't mention this.

10 Did you give truthful answers about that?---I missed this one.

Did you give truthful answers?---If this one missed, yes, it's not complete.

Yes?---M'mm.

15

Page 71, sir, from the transcript of 1 July 2019, I asked you at line 35:

20 *You haven't invested in building developments or anything like that?---Building developments. Once before, long, long time ago and build my own, yes.*

*Is that the only matter?---You're talking about investment into building construction?*

25 *Yes?---Yes, I think now twice, once very early stage and the second time was in Glendalough.*

*When you say early stage, what, shortly after you arrived here in Australia?---Cannot recall if even before I came.*

30

*What was that property?---This is in Brighton or Butler and I sold before I went to Council, or after, I cannot remember.*

*Was that a house?---That is a house, yes.*

35

*I think you mentioned Glendalough?---Yes, Glendalough I built four, four units.*

Okay?---Yes.

40

So you didn't mention this investment that you had made into this building development on Hay Street, Subiaco?---I didn't.

45 Why didn't you?---I misunderstood your questions. I thought you said investment into your own - are you building your own buildings, houses, properties, not through other people's.

:

5                    *You haven't invested in building developments or anything like that?---Building developments? Once before, long, long time ago and build my own, yes.*

*Is that the only matter?---You're talking about investment into building construction, not my own building construction?*

10                   *Yes?---Yes, I think now twice.*

15                   Ms Chen, it seems that you are doing your utmost to prevent anyone knowing about your relationship with Devwest up until today when you were challenged about it and pressed, would that be fair to say?---No, I told many people I invested into Devwest.

You might have but you didn't tell this Inquiry in March of 2019, did you?---I didn't tell the Inquiry into the City of Perth.

20                   You didn't tell the Inquiry when it served you with that notice to produce regarding sources of income and you didn't disclose to the City of Perth in all your returns about the fact that Devwest was a source of income for you?---I didn't.

25                   It looks very much to me like you were concealing the fact, at least to the City of Perth and to the Inquiry, about your relationship with Devwest? It seems that way, doesn't it?---Seem that way but - - -

But it's not - - -?---Not really matter.

30                   - - - intentional by you?---No. It doesn't matter.

It doesn't matter?---Yes, because we - the relationship I disclosed.

35                   Hold on, Ms Chen. Why doesn't it matter?---Sorry, it's not it doesn't matter I didn't disclose to the Inquiry and the City of Perth, that does matter. I said it doesn't matter because of my investment into the Devwest, the relationship between me and the Devwest is nothing to hide.

40                   But you have hidden it from the City of Perth and this Inquiry right up until today?---I told many people.

Haven't you?---Yes, I didn't tell the Inquiry.

45                   I'm not interested in who you've told of other people, but you haven't told the Inquiry and you haven't told the City of Perth?---Yes, I didn't.

So why tell all these other people but not the City of Perth or this Inquiry ?---I was

upset.

Sorry?---I was upset myself and then - - -

- 5 Upset when you were completing your annual returns?---No, no, no, upset with the invest went wrong

[3.30 pm]

- 10 What's that got to do with not disclosing your relationship with Devwest to the Inquiry and the City of Perth?---Nothing to do, yes.

- So I want you to address that question: why were you not answering questions honestly, not completing annual returns accurately, and not complying with the  
15 Inquiry's notice to produce with respect to matters to do with Devwest?---That is totally wrong, is my mistake.

- I know it's wrong and a mistake, I just want to know why you keep on repeating the same mistake over and over again?---I have no reason to hide.

- 20 It looks like you must, Ms Chen, because you keep on trying to hide it, doesn't it?---Counsel, I don't have reason to hide.

- I just want you to remember those dates: 10 April 2013 were the dates of the  
25 consultancy agreement that you signed with Devwest and the fund raising agreement, okay?---Yes.

- 10 April. The Inquiry not only has your bank account details, but also the bank  
30 account details for Hay 263 Pty Ltd, going back a number of years, okay?---Mm.

- And on 2 April 2013, that is eight days before you signed that consulting  
agreement, Hay 263 P/L the trust account, paid \$90,000 into one of the Westpac  
savings accounts you jointly have with your husband?---Yes.

- 35 It as described as, "INV 01 2013 L Chen"; what was that for?---Possibly is a commission.

A commission?---M'mm.

- 40 But this is before the agreement had been signed?---I think the agreement was signed afterwards.

- It was signed afterwards? So this was a \$90,000 commission you received on 2  
45 April, was it?---Possible.

What else could it be?---Nothing else.

It would seem by the description that appears in the Devwest bank account details, and sir, this is 17.1038, TRIM number 17906, it's the first invoice, so is that the first payment you received from Devwest? Was it?---Very possible. Where is?

5 You want to see it, do you?---Yes.

Don't you believe me?---No, I believe you.

10 17.1038, thank you, Madam Associate. About one-third of the way down, it's the very last debit from 2 April 2013, can you see that there? Do you see that there, "Internet transfer, INV 01 2013 L Chen", do you see that?---Just hold on. Loan repay, \$90,000.

15 Above that, immediately above that, "INV 01 2013 L Chen"?---Yes, I saw it.

You see that?---Yes.

20 I can tell you that that went into your Westpac savings account and I can show you where, if you want but do you accept that's the \$90,000 you received?---Yes.

And that would have been a commission payment by Devwest for you?---Yes.

25 Because of an investor that you introduced to Devwest and who must have contributed, if you were paid a 5 per cent commission, he or she must have contributed \$1.8 million, does that sound about it?---Cannot remember how much because normally I only refer and then Devwest directly talk to them.

30 Whilst we are on that page, do you see that entry there, 12 April 2013, do you see that?---Yes.

There's a credit of \$1 million?---On the same page?

On the same page, 12 April 2013?---Credit, yes.

35 On the far right-hand column, or the column in the middle, \$1 million?---Yes.

That was your payment?---Yes.

40 That was your investment?---Yes.

Did you have to take out a loan for that?---Yes, I took loan.

45 Would that have been on or around 12 April of 2013?---I cannot remember but from the paper, it looks like 2013.

Any reason why you didn't disclose that loan on your annual return for the financial year 2013/14?---That is the investment, not a loan.

My apologies, yes - no, it was a loan. You had to loan the money from the bank?---Yes.

5 So any reason why you didn't include that in your annual return?---I didn't know that should be disclosed.

We went through all this before lunch?---Yes, I did.

10 Do you remember it said "debt"?---Yes.

You had a section you had to fill in as to the financial institution that had lent - - -?---Yes.

15 - - - lent you the money?---M'mm.

So again, this seems to be another example of you keeping from the City of Perth any dealings that you are having with Devwest, doesn't it?---Yes.

20 I'm curious as to why, why you kept on making these mistakes with respect to any of your dealings with Devwest? Why was it?---No reason.

Ms Chen, what did you have to hide?---Yes, nothing to hide, should not hide.

25 Yes, but it looks like you were hiding anything that could tie you in with Devwest when it comes to the City of Perth and this Inquiry, doesn't it?---Yes.

15 April 2013, do you see that? That's a miscellaneous debit of \$50,035. Investigations - do you see that there on 15 April, right in the middle of the page?---15th of - - -

30

April 2013?---Yes.

35 The Inquiry has done its work to trace where that money went and it's gone to a Chinese, or a bank account in China in your name?---That \$50,000?

Yes?---I didn't put money into Chinese bank.

40 No, but Devwest has?---Not sure why.

That's what I'm going to ask you, why would it be depositing \$50,000 in that Chinese bank account of yours?---This is 17 April 2003?

45 15 April 2013. You won't find the answer there, you only find the amount, so the \$35 is a transaction fee they had to pay and \$50,000 has gone into your overseas bank account. That sort of all suggests that this was another commission payment for you following a \$1 million investment by an investor that you introduced to



Devwest?---Now, you remind me. This is altogether, it should be split between me and another person. The other person is in China.

5 I see?---So Devwest was to pay it into my Chinese bank account, then I transfer it to another person.

So who is this - - -?---It's like we worked together for that particular client - particular investor.

10 Who was that person over in China?---Anthony Chen, C-h-e-n, also Anthony.

I thought you said Anthony Tran there for a moment?---No, no, it's Chen, C-h-e-n.

15 C-h-e-n?---Yes, the same surname as me.

We might see if we can do it this way, Ms Chen, it would be easier, however, we can show you each withdrawal that's been made by a Devwest bank account and we can show you where that money's gone in relation to your accounts with respect to these bank account details, or we can just simply refer to a table that provides a summary of all of this. Would you be prepared just to have a look at this table?---Yes.

20 That's good. Madam Associate, if that's the case, can we have put up 17.1779. TRIM number, sir, 21894.

25 COMMISSIONER: Thank you.

MR URQUHART: We have got deposits - I will just break it down as to what all this means. In the first column is the bank account that these sums of money have gone into or out of, and then we have got the date, then we have got the description that appears in the bank account statements. We have got the application of funds, the source of funds and notes and that's the indication of where this money was coming from. Then don't worry about the Bates numbers there in red. In the top left-hand corner, we have the numbers of the Westpac savings account, the two that are in yours and your husband's name, then we have got a Westpac investment loan account, and then the Li Chen Bankwest account is the fourth one. Okay?---Yes.

40 These are, apart from the \$1 million one that we see in line 2, because that's your investment that you've made to Devwest?---Yes.

All these other amounts are amounts that have been paid by Devwest to you?---Yes.

45 From 2 April 2013 right through to 29 March of 2018, and the only reason why the Inquiry stopped its investigations there is that's the same month as our Terms of Reference expire, so we don't know at this stage what other payments have been

made to you by Devwest associated companies, okay?---Yes

[3.45 pm]

5 Here we go. So we have been through the first three, can you see that there?---Yes.

Then we can see the next six payments have all been for the exact same amount of \$4,591.67, do you see that?---Yes.

10

They seem to be payments of what's been describe as invoices, do you see the description, "INV 03"?---Yes.

04?---M'mm.

15

05, 6, et cetera. Then there's also some amounts of \$9,183.34?---Yes.

And I've got my calculator out and that's exactly double the amount of \$4,591.67?---That's correct.

20

So do you accept that all those payments of either \$4,500-odd and \$9,100-odd paid by Devwest, using it's Hay 263 trust account, are to you?---Yes.

So what are these payments?---This is interest payments on the \$1 million.

25

Interest repayments on the \$1 million?---Yes. Should have been paid monthly. Sometimes they pay for two months, so this is doubled. So all those amount is the Devwest pay to me the interest on the \$1 million and then - - -

30 Ms Chen?---Yes.

I'm going to stop you there?---Okay.

Because that wasn't the terms of the investment?---No.

35

That you made that we looked at, it was 10 April 2013?---Correct.

So those terms and conditions of that investment, didn't require, from my recollection, payment until the completion of the project?---Yes.

40

And the project hasn't even started yet?---I told them, this \$1 million, I borrowed from the bank, not my own money so therefore your guys need to help me to pay the bank's interest incurred on the \$1 million. They agreed, they said, "I'll pay that interest until two and a half years down the track, we will pay you principal, plus  
45 your investment return" and afterwards stopped.

That doesn't sound like a very good deal for you?---Not at all.

Why did you agree to do it?---Because they are friends, I help them.

They are friends?---Yes.

5

So you - - -?---Business associates.

- - - helped them?---Yes. I blamed by my husband until to date.

10 You're what, sorry?---My husband very upset with this.

I'm not surprised. So you just gave these directors \$1 million because they were friends of yours?---Yes. Also, potentially two and a half years down the track, when the construction of the building completed, they would pay me, you know, the principal, plus the investment return.

15

You are a very, very, very good friend to have?---I think I'm stupid - I was stupid.

Ms Chen, I don't think you're stupid at all and I've only known you for several days. I think you're a very smart, astute businesswoman. That's my assessment of you. Now, I would like to know why you agreed to give a \$1 million loan to your friends at Devwest with that arrangement in place?---I want - expected to have the high return two and a half years down the track.

20

25 May I ask you then why these terms aren't set out in that agreement that I took you to?---It was goodwill of Tony Hatt.

But this says an investment agreement, and it makes clear how the repayments would be done. Why didn't you just have this scheme that was in place, incorporated in the agreement?---This way, probably better than I wait for two years down the track. They pay for me, pay the bank interest on my behalf.

30

I know all that, I want to know why that isn't set out in the agreement that you signed with them?---There was a lawyer drafted, I trusted Devwest. I didn't really read it carefully.

35

Ms Chen?---Yes.

Are you saying you didn't read carefully an investment agreement in which you are handing over \$1 million?---I said to you I was really stupid.

40

No. Are you saying you did not read this agreement carefully?---Yes, not every single terms.

45 Why not?---I really - at that time I really trust them and at that time the property development is really good, in those few years.

2013?---Yes, it was really good.

I think the property boom's passed by then, hadn't it?---No, this is booming time because I remember I bought this one, I bought Nedlands one, it was very  
5 expensive.

They are not very good friends of yours if they got you to sign an agreement that didn't have the terms that you had agreed to?---I saw them as friends.

10 Yes, but they are not very good friends of yours, are they - - -?---Afterwards - - -  
- - - if they had given you an agreement that they were hoping you wouldn't read because I'm thinking if you'd read this, you would have questioned it?---I didn't question, just signed.

15 So you didn't even read it at all?---Almost didn't read.

Almost didn't read?---M'mm.

20 You glanced through it, did you?---Yes.

But you received 1 million units in the trust issued at \$1 per unit. You got a document to that effect, didn't you?---Yes.

25 That just shows it's an investment agreement, doesn't it?---Yes.

Rather than a loan?---From beginning this is a precondition. I say, "If you want me to invest, I could borrow from the bank but your guys have to pay the interest because it's too hard for me to pay interest on \$1 million, apart from, I already  
30 borrowed a lot of money."

What was in it for you?---What was that?

35 What was in it for you, doing this?---Expectation two and a half years down the track, I will get my investment back, plus investment return.

So when did you find out that the investment agreement had those terms in it?---I didn't know. I didn't find out.

40 You didn't find out until today?---No, no. I think in 2015 they came to me and said, "Look, the project went wrong, Subiaco Council didn't approve, and we could not continue and we could not give you the money back on time. No returns at all, so I now, for the goodwill, I change the investment into loan and then return  
45 \$400,000 from the \$1 million and then we still owing you \$600,000 but we really cannot repay you, but we try to pay the \$600,000 interest according to - for you to pay to the Westpac." I agreed.

Just one moment, please. So this investment which then became a loan, has clearly remained in your mind for a number of years, hasn't it?---In 2015 start.

5 Yes, and all the details that you've given us now, it's clear in your mind, isn't it?---Yes, now, when all those things come out.

10 It was not very clear in your mind when I asked you about your investment in property developments back in March of this year, was it?---Not clear to me at that time. If including Devwest, this kind of events, yes, I missed this.

COMMISSIONER: Was it March of this year?

15 MR URQUHART: 1 March of this year - my apologies, 1 July of this year?---Can I take this pink medicine?

Certainly. Would you like to have a break now?---Yes, please.

COMMISSIONER: I will adjourn for 10 minutes.

20 **WITNESS WITHDREW**

(Short adjournment).

25 HEARING RECOMMENCED AT 4.09 PM

**MS Lily CHEN, recalled on former affirmation:**

COMMISSIONER: Yes, Mr Urquhart.

30 MR URQUHART: Thank you, sir.

Madam Associate, would you be able to put up that last document we had on the screen, so that's 17.1779.

35 Ms Chen, would I be right in saying that you would have rendered invoices for these payments of \$4,591 and \$9,183?---Yes.

40 Right at the very bottom there, that last entry, do you see there? There's been a deposit of \$34,000 that went into one of your Westpac savings accounts?---That's correct.

45 And that is a commission payment, isn't it?---Investor through me purchased a unit, offer plan unit from Devwest and this amount of money split between - \$34,000 split between her and me.

So explain that all to me again, what is it?---Okay. This \$34,000 is a lady of my friends who purchased off plan unit from Devwest and then she invested the

money first and then Devwest paid a commission for me and her. I actually disclosed to her, I said, "Look, you bought this off plan unit, Devwest pays me \$34,000; I distribute it, split it between you and me", so I gave to her half.

5 So you gave her half?---Yes.

Why did you decide to do that?---Because she is a friend of mine.

10 What apartment had she bought off the plan?---I have no idea, probably Joyce knew.

But not - - -?---Not me.

15 But not at 263 Hay Street, not that development, it was another development?---Yes, should be another development of units and now they haven't built.

20 So you received \$34,000 which was 5 per cent of the money that she paid for that off the plan apartment, is that right?---Yes.

So she would have bought an apartment for about \$680,000?---Yes, possibly.

And you kindly gave \$17,000 back to her?---Yes.

25 That should be able to be traced from your account?---Hope so.

I hope so too?---Yes.

30 Because you would have withdrawn \$17,000 from that account that ends in 1522, would have you?---Yes.

Shortly after you received it?---M'mm.

35 Is that right?---Yes.

40 Are you certain about that?---I'm not sure about the \$34,000 or there is another amount, \$25,000 I split with her and this one, I'm not sure whether I got confused with another \$25,000. I remember there was \$25,000, then I split between her and me. This \$34,000, I've got no recollection but - yes.

45 Could I ask why this money was going into different accounts of yours? After that \$50,000 deposit that went into your Chinese bank account, which is the third one down?---Yes.

The next nine payments went into your Westpac savings account that ended in 8752, do you see that? It's on the left-hand side. All those went into the same account?---Yes.

But then the next eight went into your other Westpac savings account ending in 1522?---I'm not sure whether the loan restructure or offset accounts, because I wanted that amounts to go to the loan offset account.

5

It's just that the investment agreement that had been drawn up, that indicated that all distribution from the trust, which includes distribution of income and capital, were to go into another bank account altogether and that was the one ending in 6276, and the only payment of that is one, and that was the third one. Any reason for that?---No idea. Is this one could transfer overseas? I have no idea

10

[4.15 pm]

So that \$34,000, that was a commission payment but that might not be the one that you just mentioned?---Yes.

15

Because you said that other one you mentioned was for \$25,000?---Yes.

Then we go, there's more, so 1780 now, please. The top one there is now 19 January 2015?---M'mm.

20

And it's for that sum we have seen previously, \$4,591.67. You're saying that's an interest repayment, are you?---Yes.

25

Then a payment of \$9,183, another interest repayment?---That's for two months.

Then we see a \$400,000 payment?---That is the changed investment to the loan. They returned back to me \$400,000 of the loan.

30

And that went into a different bank account, that was your Li Chen Bankwest account?---\$400,000, yes, correct.

So why did it go into that bank account?---I'm not sure why but I returned back to the Westpac loan account.

35

Then we have a \$6,887 payment on 17 August 2015, a different amount again, isn't it?---Yes. They started to pay me on the \$600,000 interest. This one must be a few months but is totally different from the previous monthly payments. Previously, the \$4,591.67 per month, and then dropped because it's only \$600,000 now loan only.

40

I see. Then we see a payment of \$2,755?---Yes. Probably this is the one amount and then, yes.

45

That amount is repeated for the last eight payments, do you see that?---Yes.

So you're saying they are interest repayments?---M'mm.

I want to concentrate now on the amounts that appear below the first payment of \$2,755?---Yes.

5 Okay?---M'mm.

\$7,500, \$67,500, \$7,200, two lots of those, \$10,800, \$20,000 and \$13,000?---M'mm.

10 Am I right in saying they are all commission payments?---Not sure but this one is certainly commission.

Which one?---The \$67,500.

15 Yes, and also the one above that, \$7,500 because that comes to a total of \$75,000 that was made on the same day?---This one cannot exactly recall but - - -

Because I can tell you now why you couldn't receive \$75,000 from the Hay 263 trust account, and that's because there wasn't enough money there to pay

20 \$75,000?---Okay.

So you see, it's come out of another account called Barker 3 investment account, do you see that?---M'mm.

25 I'm going to suggest to you because those two amounts were paid on the same day and came from two different bank accounts because of a shortfall of funds in the Hay 263 Trust account, meant that you were receiving a commission in the amount of \$75,000?---That's very possible.

30 Then we have got some amounts underneath that of \$7,200?---M'mm.

Do you see that, two lots?---Yes.

Again, is that commission payments?---Probably not.

35

What would they be then?---I'm not sure how they paid these.

You've got no idea what those are payments for?---Yes.

40 We would get some indication from the invoices, would we not?---I probably didn't invoice them. Maybe invoiced, I have no idea.

Are these these monthly fees that you were supposed to get?---No, they don't have monthly fee. I told from beginning, they didn't pay me actual monthly fee.

45

It doesn't look like an interest repayment, does it?---It doesn't look like.



So we have ruled out an interest repayment and we have ruled out that monthly payment of \$2,900 that you say you never got?---M'mm.

That just leaves the commission payment, does it not?---Possible.

5

What other payment could it be?---I have no idea. Possible it's a commission.

That would be the only explanation for it, if it was not an interest repayment?---Yes.

10

So it must be for a commission?---Yes.

Am I right in drawing that same conclusion for the \$10,800 payment that appears below the second \$7,200?---Yes.

15

Then the \$20,000?---Yes.

Another commission payment?---Yes. Cannot explain so possible is commission.

20

It can't be any other, can it?---Cannot.

And \$13,000, another commission payment?---Yes.

25

I can't see that \$25,000 commission payment that you've referred to?---Then must be \$34,000. I remember, in my recollection, there is an amount I split between the investor and myself.

30

Ms Chen, between that first payment of \$90,000 that you got on 2 April 2013, through to that \$13,000 on 27 April 2017, so just over four years, four years and three and a half weeks, you received, it would seem, on commission payments alone, \$307,200 from Devwest. I've added it up. So that works out on average at \$75,000 a year?---Yes.

35

That's not a bad little source of income, is it?---Yes.

The City of Perth had no idea about it?---No.

40

And it should have, shouldn't it? It should have at least known that you were receiving a source of income from Devwest?---Should have put into annual return.

And don't you think a ratepayer who might want to look at your annual returns would be interested in finding out that you were receiving commissions from a property developer?---Yes.

45

That might be a reason why you didn't disclose it on your annual returns?---That's not a reason. I really don't want other developers come to me, ask me for the same thing.

You don't?---Because it's harder to source. Only the property booming time.

5 Let's get back to this. On the evidence it would seem that you did not want anyone finding out from a Freedom of Information application to look at your annual returns, that you were receiving commissions or receiving payments from a property developer. It looks like that, doesn't it?---Looks like but I didn't think about the ratepayer would be interested in. However, probably the newspaper they are.

10 The notice to produce from March of this year required you to disclose all sources of income for the financial years 2015/16 and 2016/17. I've left that page up there on the screen, 17.1780, which indicates that that payment of \$7,500, do you see there, the seventh payment on that page?---Second page?

15 Yes on the second - on that page there in front of you, 1780?---Yes.

You got \$7,500 on 25 September 2015, right down to the \$13,000 payment?---Yes.

20 All those payments fell within the notice to produce, didn't they?---Yes.

Over \$130,000 in commission payments you did not disclose as you were required to do in response to that notice to produce. That seems to be the case, doesn't it?---Yes.

25 And you maintain that was not just a mistake, but an accidental mistake, do you?---Not intentional.

30 Yes, an accidental mistake?---This is opposite of, for no intention?

It's an accident, you didn't mean to do it?---Yes. Even some of the payments, I didn't have idea.

35 But we have worked out it had to be commission payments, haven't we?---We did. I probably should go back to ask them, after the Inquiry finished.

So a mistake, not a deliberate mistake?---Yes.

40 You still maintain that, do you?---Yes.

Sir, that might be an appropriate time to finish for today, but I haven't completed my examination of Ms Chen.

45 COMMISSIONER: Yes. Ms Chen has been in the witness box for a long time. I think it's only fair that we stop now. Is there any housekeeping matter that you want me to attend to, Mr Thomas?

MR THOMAS: No, sir, other than to, if we are to be back here tomorrow, perhaps you could let me know what time.

5 COMMISSIONER: Yes, I will deal with that in a moment, thank you. Apart from the time, is there any other housekeeping matter you want me to deal with, Mr Urquhart?

MR URQUHART: No, there's not, thank you, sir.

10 COMMISSIONER: Is 10 am a suitable time or do you want to start earlier?

MR URQUHART: 10 o'clock will be fine.

15 COMMISSIONER: Will that suit you, Mr Thomas?

MR THOMAS: Yes, sir.

COMMISSIONER: Ms Chen?---Commissioner, I have - - -

20 Please sit down, don't stand for me?---I have no idea, I have to go back to check, but I'm compelled to come, so I have to cancel all other appointments.

Thank you, Ms Chen, it's appreciated?---No worries.

25 Very well, I will adjourn until 10 am tomorrow morning.

**WITNESS WITHDREW**

30 **AT 4.28 PM THE MATTER WAS ADJOURNED  
UNTIL WEDNESDAY, 14 AUGUST 2019**

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