

THE COMMISSIONER: Mr Watson.

MR WATSON: Is your name Paul Gardner Brook?---Yes, sir.

But you're commonly known as Gardner?---Yes, sir.

10 And you currently live in Singapore?---That's right, sir.

Mr Brook, we had some evidence yesterday that you were introduced to Moses Obeid by Arlo Selby. Is that correct?---That, that is correct.

And if I trace it through with you I'll, I'll try and save time by leading you on these things?---Sure.

It was suggested that Mr Selby knew you for at least a couple of months before he introduced you to Moses?---That's correct.

20 And that he had contacted you and on a particular day the three of you met at a hotel which is sometimes called the Sofitel although older hens know it as the Wentworth?---That's right.

And the Wentworth Hotel or Sofitel, that's very close to where Lehman Brothers was located?---Correct, sir.

And you met, according to Mr Selby, at a ground floor coffee shop or café?
---It's got, yeah, it's got a big glass wall, that's right.

30 And it's, it faces out onto Phillip Street?---Yes, sir.

Or Chifley Square?---That's right.

And you probably don't recall the date that this occurred?---Not exactly.

I'm going to - - -?---I think it was about mid '08.

40 THE COMMISSIONER: I beg your pardon?

MR WATSON: About mid '08, Commissioner. Well I'm going to have a document shown to you or a folder of documents exhibit J-16. You'll see that this is numbered in the top right hand corner. What I'd like you to do is go to exhibit J-16 that's part 3 volume 1 page 92. Now this is an - - -?
---Yes.

- - - email sent by Arlo Selby to you on 3 July 2008?---I'm sorry, sir, I'm on the wrong page.

Page 92?---92, yes, sorry.

Now the thing is that you would've received more than one email from Arlo Selby so to try and tie that into the meeting with Moses, I want to show you another document at page 93 which is an email sent by you to a person named Glen at BBY. Do you see that?---Yes, sir, I do.

10 And that's, the subject is company with mining licence?---Mmm.

And you've sent Glen an email at 10.56am on 4 July. Do you see that?
---Yes, sir.

If we tie those two events together would you be confident that the meeting that you had where you were introduced to Moses Obeid occurred on 3 July 2008?---I would definitely say so.

20 Now just keep that exhibit with you because I'll go to it again but if you close it up - - ?---Sure.

Now did Arlo Selby tell you what the purpose was of him introducing you to Moses?---Not precisely.

You need to sit a little forward if that's okay?---I beg your pardon.

We've had a bit of problem with the mics?---Not precisely, sir.

30 Not precisely. So you went to the meeting more or less cold on the subject?---It was cold.

And when you met at the, I'm going to call it the Wentworth Hotel if I may?---Sure.

When you met at the Wentworth Hotel no doubt you exchanged introductions and the like?---Ah hmm. Yes.

Now I want to know what it was that Moses raised as the subject of any meeting?---Well - - -

40 And when we have asked this – you may have heard me say it yesterday to Mr Selby. We've asked the witnesses to use as best they can what was said. We're not holding people down to the precise words?---Mmm.

But the words that you best recall were used?---Okay. At the start of the conversation I was selling Lehman Brothers, explaining my position, we were new to Sydney, Australia, so I was explaining, I was in deal looking mood for want of a better term. And just described Lehman globally and our functions, our capabilities and my role within Lehman.

All right. Now just to get the background on that, you'd originally come from Victoria, is that so?---Well when I was a child, sir, yes.

All right. But at Lehmans, you hadn't been long at Lehmans?---Around about August 07.

Lehmans was new to Australia at that time, wasn't it?---Yes it was.

- 10 Now in response to your introduction or pitch in relation to Lehmans, did Moses start talking to you about a potential deal?---Yes, sir.

What did he say?---He said he was interested - well, he said he was looking at putting together a coal deal.

Right. What else did he say about that? Anything?---He said that he owned, he had formed a, a property or a landholders' alliance in the Bylong Valley. I, I knew nothing about the area.

- 20 I'll just get you to use his words first of all but I think - - -?---Yeah.

- - - you were going to say there did, had you ever heard of the Bylong Valley - - -?---No.

- - - before meeting Moses?---I'm not familiar with New South Wales.

- 30 All right. Well, he said that I've formed a land alliance in the Bylong Valley. What did he go on to say?---He said that he'd formed a land alliance, they were conducting due diligence through geologists, consultants, to ascertain if there was any potential mining opportunities and by forming a land alliance he felt that they could be, participate at a mining commercial level other than just being landholders and receiving compensation.

Now, can I ask you something, at the time of this meeting you'd been working in finance for some time?---All my career, sir.

Had you any experience generally in mining?---No.

- 40 What about specifically coalmining?---Not at all.

And I mean as at this meeting would you have known that there were different grades of coal?---I knew nothing about coal, sir.

Right. So he - so he has suggested that there was a possibility of a commercial transaction. Did he mention anything else about the process under which this might occur?---He mentioned that through his contacts that they believed there would be some tenders coming forward.

Did he say who his contacts were?---Not specifically, just consultants, geologists.

Yesterday you were here when I examined Mr Selby?---Yes, sir.

Is that so?---That's right, sir.

10 Mr Selby has a recollection that at the meeting Moses did say that his father was a politician, an eminent politician?---Yeah.

Do you remember anything along those lines?---Yeah, I do. Yeah. He mentioned his father was in politics.

THE COMMISSIONER: In which context did he say that?---He just said my dad, my dad's been in politics for a long time, sir.

20 MR WATSON: Well, in this conversation yesterday Mr Selby suggested there may have been an offer made by Moses that he could arrange for you so that certain powerful politicians would go to Lehman Brothers for a lunch?---Yes, he did, he did.

He said that at the time?---Yeah.

30 Well, yesterday I showed Mr Selby a series of documents which seemed to confirm what Mr Selby said, that soon after the meeting with Moses you advised the people at Lehman's that you could get politicians including Mr Macdonald, Mr Tripodi and Mr Costa to a lunch at Lehman's?---That's correct, sir.

I mean, did you know any of these people?---No.

And how, what did Moses say about arranging for these people to come to lunch?---Well, after I'd explained we were looking for new, you know, deals and have you Mo said well, through my dad I can introduce Lehman to the, to the senior cab, sorry, sorry.

Yes, senior Cabinet ministers?---Sorry, I'm sorry.

40 I heard what you said?---Yes. I'm just a bit nervous sir, sorry.

So am I. Well, and in the end you were able to organise that lunch?---It was very swift.

I think Tripodi and Costa and Macdonald all came to Lehman's and they also were accompanied by Moses' father, Eddie Obeid?---That is correct.

Now, it was in this context that Moses had said something about through his connections he knew certain things. Did he mention politicians in that context?---I'm not sure if I understand that question, sir.

All right. Earlier on you said that Moses had said to you that through his connections he'd become aware that tenders were going to come up?---Yes.

Now, I asked you whether he identified who the connections were. Did he speak of politicians in the context?---No.

10

Right. Now, the tenders themselves, did he describe how they would be put together or put up?---No.

At this stage it was a rudimentary discussion?---It was very broad, very.

Was there any talking about the way that they would do it – for example did Moses portray to you that he had sufficient mining experience by himself to launch such a deal?---No.

20 Did he say something about that?---He said that they had been seeking to partner with a mining company- - -

All right?--- - - -to participate in a mining venture.

And you've used an expression there, mining venture, did he tell you what mineral was going to be mined?---It was coal.

The discussion was all about coal?---There was no, there was no doubt.

30 And so had he said that there had been an approach made in effect with a mining company but that had failed? That was the impression I got from your answer just then? Well, sorry, I'll withdraw that. Can I withdraw it? ---That's okay.

You said they had been looking to get involved with a mining company. Did he suggest to you that they'd already tried that?---To the best of my recollection, probably, yeah.

40 So was there any discussion on your part about your ability perhaps to identify a mining company for them?---Not to identify one, no.

Right. Did, what, how did you respond to Moses' statement that they had been looking to get involved with a mining company?---My impression was it was a great opportunity to get involved in a, you know, a big deal, and if you had the landholders in a part of a consortium that would give you a position of advantage.

Well, I understand that Moses Obeid will come before this Commission to give evidence soon and I further understand that he is going to say that he met you with the intention of discussing his business known as Streetscape and that when he met you it was for that purpose that he raised Streetscape and that it was you, Mr Brook, not Moses but you who raised the issue of coal. If Moses Obeid says that, would that be accurate?---No.

Did the word Streetscape ever get a mention?---I do not recall the name Streetscape being mentioned.

10

You didn't know Moses before this meeting?---No.

Was there at this meeting any suggestion by Moses Obeid that he was putting together this landholders' alliance or property alliance for the purpose of attempting to prevent coalmining occurring in the Bylong Valley?---No.

20

You see I understand that Moses Obeid will come before this Commission and say the purpose of the Obeid family was to gather these properties together to prevent these mining companies from damaging the beauty, beautiful Bylong Valley. Have you ever heard any suggestion like that from Moses or any member of his family?---No, sir.

Now, can I suggest this, that soon after your meeting with Moses you did set about trying to find a suitable mining company?---I didn't.

I'll show you some documents. You've got that document in front of you - - -?---Yes.

30

- - -which we call J-16 part 3, volume 1. Would you turn to page 93?---Yes, sir. Oh, sorry, yes, yes.

THE COMMISSIONER: Can I just ask you this, Mr Brook. What was the purpose of inviting these three politicians to lunch at Lehman's?---
Commissioner- - -

What was the object of that?---Sure. Commissioner, the idea was that as a investment bank new to the country there may be opportunities to be awarded work, that sort of thing.

40

Through government?---Yes, sir. That was, and I asked internally at Lehman, are we interested and we were.

Yes, thank you.

MR WATSON: Well I'm going to show you some of these documents and with them I hope maybe even to refresh your memory - - -?---Yes.

- - - of the meeting at the Wentworth - - -?---Appreciate that.

- - - even a little better. On page 93, and this is the very next day - - -?---
Mmm.

- - - you're in contact with Glen at BBY. BBY are stockbrokers, aren't they?---That's right.

10 And the subject you'll see at the top of the page is, "Company with mining licence."?---Yes.

So was - - -?---You've refreshed my memory, sir.

Then – well I'll even do a bit better if I, if I show you page, sorry, at 94 there's an email between yourself and Rodney Pryor?---Yes, sir.

Pryor was at Lehman's?---Yes.

20 Also known as Rocket Rodney Pryor?---That's right.

And what you were talking about there was a discussion you were in with BBY about a private coal play that, you'll see that there?---That's right.

And if I take you through to page 103, no, so sorry, it's 95 where I want to do it. That's the end of a chain of emails. But if you go to 96 you'll see where it starts, and this is early the next morning after this first meeting. You'll see that you've sent an email to Jeremy Dunlop - - -?---Mmm.

30 - - - who's at BBY?---Ah hmm.

And you've said to Dunlop that you need to meet with him. At the top of the page he's responded by telling you he's in London?---Mmm.

And then if you go back to page 95, in response to his question, "What's up?", at 9.15am on 4 July you said this, "I went to bid on a government tender but I need a company that has coal mining licence", sorry, I'll read it again. At 4 July 9.15am, "I want to bid on a government tender but I need a company that has a coal mining licence." Do you see that?---Yes, sir.

40 Now does that help you? I mean the Commissioner asked you a question, did Moses Obeid tell you anything about it being a government tender?---Yes.

What did he say about that?---He said through his sources he believed there were government tenders coming up.

And obviously there we also see the reference to coal so we know it was a coal mining government tender?---Mmm. Yes.

And then there's a reference to this, "Preferably a private company"?
---Mmm.

If you see your note to Dunlop?---Yeah.

Now where does that come from?---That came more from me because if
Lehman were to get involved it's better to get involved at a private company
level, establish value and then list the company or sell the company.

10

Or sell the company's assets?---Yeah, exactly, yeah.

Well then there's further exchanges between you and Dunlop, and what I
was going to say - - -

THE COMMISSIONER: Sorry, one moment, Mr Watson. Why did you
need a company that had a coal mining licence?---It just - well,
Commissioner, I - - -

20

Was it a matter of experience?---I had no experience in the industry.

So you wanted a coal mining company that had experience?---It seemed
natural to, to do that.

I understand.

30

MR WATSON: And then what I'm going to suggest is that it looks to me
that what happened was, as a result of your discussions with Jeremy Dunlop
that you spoke to the other person named Glen who was at BBY or
attempted to speak to them?---Glen Rosewell, I think. Yes.

Now on page 95 at the email at 9.17am, what I was showing you - so sorry,
just excuse me. You'll see that from the email sent to you by Mr Dunlop at
9.16 he's referred you onto Glen?---Ah hmm.

That was the other email I showed you. Is that right?---That's right.

40

But I want to show your response at 9.17am, "Thanks, by the way timing is
tight." Now could I ask you what was that about?---Moses told me that
timing was tight. If I was, Lehman, were to be involved.

Did he tell you why timing was tight? What in effect set the deadline?---His
sources had told him, told him in the imminent future tenders were to be
announced.

All right?---Potentially. He wasn't absolute but potentially.

Now could I ask you something else while we're here and just in the context of the private company and the like did Moses Obeid say anything to you about the kind of money companies who were likely to be invited to tender?
---Yes, he did.

What did he said?---He said small to medium sized companies.

Did he say this at the first meeting at the Wentworth?---It was either the first or the second.

10

Right. Did you continue to acquire information from Moses by either speaking to him on the phone or in person?---Yes, sir.

Well, I want to show you a particularly important document. Could you look at that Exhibit J-16, part 3 volume 1, page 105?---105, sir?

THE COMMISSIONER: Can you put these documents on the screen please.

20 THE WITNESS: Oh, yes.

MR WATSON: And you'll see that 105 is effectively an email that you sent to yourself?---Yes, sir.

And what it was was designed to get a PDF version of a document onto your own computer?---For work, yeah.

And so have you done this sort of thing before? I mean, it seems a bit mad to be sending an email to yourself but there was a purpose behind it was there?---Well, I wanted to remind myself the next morning.

30

Now, you'll see that that email is sent through at 5.15am?---Mmm.

Sent through to yourself?---Yes, sir.

And if you turn to page 106 we can see what's on it?---Ah hmm.

Now, we don't have the original but we've been able to recover this from computer sources. Did you see an original document with this original handwriting on it?---Yes, sir.

40

Who gave it to you?---Moses Obeid.

Where did he give it to you?---I don't recollect exactly.

And when he gave it to you what was it on? Just a blank piece of paper?
---I, I believe so.

THE COMMISSIONER: It's not your handwriting?---It's not my handwriting, sir.

MR WATSON: Do you have any idea whose handwriting it is?---I believe - well, I believe it is Moses'.

Why do you believe that?---Because he gave it to me.

10 Right. When he gave it to you what did he tell you about it?---He said that through his sources he believed these companies may be invited to tender.

Did he tell you who his sources were?---Again, he referred to them as consultants, geologists, very vague.

Now if I go back to page 105 I asked you about the time that it was sent. It looks as though it was sent by yourself to yourself at 5.15. Does that mean that you did it after a late night out or you sent it to yourself and it, on a day when you had an early start?---Unfortunately sir I think I had had a late night out.

20

A late night out. Would it have been a late night out with Moses?
---Probably.

Could I ask you this about that, so that would mean would it that this document was given to you some time before 10 July, 2008?---I would deduce that it was the same day.

Well, it's 5.15, you're not - - ?---Oh, sorry, okay. Well, I don't, I don't recall what time he gave it to me.

30

All right. But it would have been the previous day?

THE COMMISSIONER: Or that night?---Or that night.

MR WATSON: Or that night?---Yeah. I don't recall.

Now, what I want to ask you about is this, is did you ever see a transcript, a typed version of this document?---No.

40 A source document?---No.

What I'll do is I'll get you to keep that page open, that's Exhibit J-16, part 3, volume 1 page 106 but at the same time I'm going to ask the Commissioner's associate to show you Exhibit J-9. Just open up J-9 if you wouldn't mind, which is Exhibit J-9, part 2, volume 1, page 226?---Yes, sir, I've got that.

I just want to ask you – this I want you to assume is a document which we've established by evidence was part of a Ministerial briefing. Have you ever seen it before, did Moses have a copy of that?---No, sir.

All right. Would you close up Exhibit J-9 and return it to the Commission's associate, Commissioner's associate?---Thanks.

If you've still got Exhibit J-16, part 3, volume 1, page 106 open- -?---Yes.

10 - - -would you look at those company names?---Yes, sir.

Now, could I ask you, before Moses gave you this piece of paper, had you heard of any of these companies?---No.

Well, look at it again and just take your time. I don't want to rush you. Are you saying you'd never heard of any of them before he gave it to you?---No. That's what I'm saying, sir.

20 Well, I'll just give you a particular one I want to talk about. You'll see there that the fifth company listed is Monaro Mining No Liability. Do you see that?---Yes, sir.

Now, was that a company that you'd ever heard of before?---No.

So when Moses gave you this list, that's the first you'd heard of it?
---Absolutely.

THE COMMISSIONER: Had you, had you heard of Tianda Resources?
30 ---No, sir.

MR WATSON: Now, when you got that document from Moses, did he ask you to do something with it?---Well, it was obvious.

Well, I mean it might have been obvious to you but I'm afraid not to me?
---I beg your pardon, sir. He gave me the list with the intention for me to review the list and identify if Lehman would be interested or capable of assisting any of them in a bid for a coal licence.

40 All right. Now, before we go further I just want to ask you about this. I understand that Moses Obeid will come along and give evidence and that he will say, I've never heard of Monaro Mining but Gardner Brook told me he knew of a company called Monaro Mining, Monaro Mining was a previous client of Lehman Brother and it was Gardner Brook's idea about Monaro Mining. Is that right?---That's false.

That's false, is it?---Yes.

You'd never heard of Monaro Mining- -?---No.

- - -before this piece of paper was given to you by Moses Obeid?---No.

And I understand – I might as well ask you these questions now – I understand that at one stage or another – I withdraw that. I understand that Moses Obeid will come along and say, well, I'd heard of this fellow, a fellow who knows what he's talking about in mining called Warwick Grigor and I heard him on the radio and I knew he was from a company called BGF Equities, so I actually said to Gardner Brook, you should talk to this fellow,
10 Warwick Grigor, he's something of an expert or guru in the field. Did he ever say anything like that to you?---No, sir.

And I understand further that you'll come, he will say that you came back with Monaro Mining and it was just one of those moments of serendipity that strangely enough this same fellow, Warwick Grigor, was associated with Monaro Mining. Did anything like that happen?---No.

Now, I'm going to ask you to close up Exhibit J-16 and give that back to the Commissioner's associate, and at the same time I'm going to ask the
20 Commissioner's associate to provide you with another exhibit, J-17.

Now this is, we call it exhibit J-17 and it's part 3 volume 2 and I'd like you to open it up at page 461. Now at 461 there's an email from Amanda Turner to you. Amanda Turner looks as though she's from Lehman Brothers?---Yes.

What was her role at Lehman Brothers?---Personal assistant.

Could she type?---Yes.
30

Now you'll see that it's sent through on a particular date, September in 2008. But if you turn over the document which she sent to you is there. This is now exhibit J-17 page 462 and it refers to four mines and it refers to detail, for example the Gunnedah coal field for Goonbri and that sort of thing. Do you see all of that?---Yes, sir.

Now it seems as though Amanda Turner was sending that through to you. Did you give something to Amanda Turner for her to type so that she could produce this and send it back to you?---It doesn't look like the sort of font
40 we would use at Lehmans, sir.

All right?---So I think it was probably a scanned copy of - - -

From somebody else?---Yes.

All right. Well can I just ask you, for example, going through them had you ever heard of a tenement called Goonbri?---No, sir.

Did you know where Gunnedah was?---I still don't.

Spur Hill, Glendon Brook?---No, sir.

Mount Penny? Did you know where any of these places were?---Mount Penny I, I had found out about.

How'd you find out about Mount Penny?---Via Moses.

10 What did he tell you about it?---He owned a property at Mount Penny.

All right. Did he describe to you what Mount Penny was? Whether it was a major geographical feature or he - - -?---He described the farm that his family had bought there.

THE COMMISSIONER: In what context did he do that?---Recreational, sir.

20 Yes, but why did he come to mention it?---Because that was the subject of the conversation, was there coal around the area.

Was there coal at the farm?---Yeah. That's right.

MR WATSON: If these things that you've got on that page 462, these things at Lehman Brothers apparently set through by Amanda Turner, do you, do you know whether at one stage you were given a document containing something like this? It's not a memory test, if you can't recall it's better you just say you can't recall?---I cannot recall.

30 Now what I'd like you to do is turn over. Same exhibit, same volume page 463. Now you'll see that this one's got a very strange heading but when you look down it's again an email which you've sent to yourself in essence, from Gardner Brook to Oregon Standard, that's your own business, is that so?---It's, yeah, it was, sir, yes.

Now what you'll see is that it's got a reference there to attachments – coal mining areas and coal opportunities with Monaro Mining. Do you see that? ---Ah hmm.

40 You're - - -?---Yes, sir, I do.

And what I want to show is that after that you've sent some of that onto a man named Barry Yin?---That's right.

Now if you go to page 465 you'll see the first of the two attachments? ---Ah hmm. Yes, sir.

Do you know where – it seems as though you had this document. Do you know where – who you got it from?---I believe it was Monaro Mining from
- - -

You seem to have had it – sorry, you say you got it from Monaro Mining?---
I, sir, to the best of my recollection, Monaro.

Anyway you got it from somebody?---Yeah.

10 You think Monaro.

THE COMMISSIONER: But you had it by 4 September?---Yes, sir.

MR WATSON: If you have a look at the handwriting in it, Gunnedah
Hunter Western, is that yours?---No.

Now if you turn over the page you'll see that there are some references to
some coal fields and again it's the same sort of thing, Spur Hill, Glendon
Brook, Mount Penny. At least this stage Goonbri's gone. Do you see all of
20 that?---Ah hmm, yes sir, I do.

And were things that you knew, I mean, for example did you know that
Spur Hill was located to the east of the Hunter River and the village of
Denman?---No.

Or that the difference between thermal coal and coking coal or clinker?
---Well, I was learning, sir.

30 All right. You see, I want to have the Commissioner's associate show you
another volume just while we've got these pages open. Could the witness
be shown Exhibit J-9.

THE COMMISSIONER: While the associate is getting that, Mr Brook, do
you have any idea where you got this document from?---The, the map,
Commissioner?

Yeah, at 466?---Sir, I either received that from Monaro or Moses.

40 And can I just take you back to 465, you said that you got it from Monaro
but you seemed to me to be rather uncertain when you said that?---I'm not
certain, sir, it could have been Monaro or again Moses.

MR WATSON: What I'm going to do is I'm going to show you some
documents now - - -?---Right.

- - - and show you where we think that document came from?---Okay.

So if you leave the page open of Exhibit J-17 and then if you take this volume, Exhibit J-9 and this is part 2, volume, 1, would you open it to page 254. Page 254 - - ?---Sorry, sir, I'm not there yet.

So sorry?---I beg your pardon. 254, sir?

Yes, yes, please?---Yes.

10 Now you'll see 254 there is a document which is something that I want you to assume we've retrieved from New South Wales Government records, being a Ministerial briefing given to Ian Macdonald in July 2008. Now, you've probably never seen that document before?---No.

I want to show you something in it however. Would you turn to page 264? ---264?

264?---Yes.

20 Now you'll see that this is a map which is identical to the one which you sent on to Barry Yin, identical except for the handwritten marking on the Barry Yin copy of the coalfields, Western, Hunter and Gunnedah, do you see that?---Yes I, do.

Now, if you, even if you look in the bottom right-hand corner on each and you've got eagle eyes you'll see that these particular maps were made by a Mr Fred Schiavo on 21 July, 2008, you can see that?---I can see that, yes.

30 And you'll see at the top "Proposed EOI areas". Now, this is part of a Ministerial briefing. Mr Brook, I understand it may be suggested to you that you are the person who leaked confidential government information. Did you?---No, sir.

Can you explain how it appears that in your possession in September 2008 you had a copy of this map? We've got, sorry, I should tell you, we've got evidence that this map as you can see was a proposed map, it was in Ministerial papers and never released because it was superseded?---Okay, right.

40 We've got evidence I want you to assume to that effect and it's unchallenged?---Right.

Mr Brook, can you explain how an apparently confidential high level document was in your possession within a month of its creation?---I can't explain that.

Looking at it now - - -

THE COMMISSIONER: Sorry, Mr Watson. You can't explain now but you have said that it came either from Monaro or Moses Obeid?---Well, they were the only two parties I was talking to about Mount Penny, sir.

Could you have got it from any other source?---I don't believe so.

MR WATSON: See, I want to make it clear to you in case it's not apparent by this being headed Proposed EOI Areas. This is not, this was not a final map, it was in a draft form- - -?---Mmm.

10

- - -and for high level confidential discussion?---Right.

You can't now tell us – or sorry, you say you were not the person who elicited this from a Government source?---I was not, no.

Did you know for example Ian Macdonald or any member of his staff?
---No.

20

And I suppose you'd had that lunch with him at Lehman Brothers?---I met him, I met him once.

But did you know anybody high up in the Department of Primary Industries?---No one.

Now, if I show you now page 261 of that same bundle?---Yes, sir.

30

Now, you'll see there that this is – and I want you to assume this is part of the same confidential Ministerial briefing, and it's referring to Goonbri, Spur Hill and those places. Do you see that?---Yes, sir.

And the wording seems to be identical to the wording in the email that was sent to you by Amanda Turner. Again I need to ask you, Mr Brook, did you either receive or steal this confidential document?---I certainly didn't steal it but I must have received it, yes.

And, and do you now think you know who you received it from?---(No Audible Reply)

40

THE COMMISSIONER: Well, what are the possible sources?---Again, Commissioner and Mr Watson, either Mr Obeid or Monaro.

MR WATSON: All right. Well, would you close up both of those volumes for me now and I'm going to ask you to return those two volumes and then I'm going to ask the Commissioner's associate to show you two other documents, one we call MFI 5 and the other we call MFI 6. I want you to assume that these are two maps which we found in a vanilla folder, vanilla, start again. Might have been a vanilla folder. I want you to assume these are two maps that we found in a manilla folder in the office of Paul Obeid at

Birkenhead Point. Have you ever seen those maps before?---The, the one, MF1-6- - -

We call that MFI 6?---Sorry, it looks familiar definitely.

And in what sense does it look familiar, did someone show you that or- - -?
---Yes. Well, well, not necessarily this version, but certainly outlined the map, yeah.

10 All right. And who was the person or persons who showed to you do you believe?---Moses and Paul Obeid.

Now, what you'll see on MFI-6 is it has a rather distinctive pink hatched area- - -?---Yes.

- - -which we're calling an S on its side. And does that area, the way that it's marked, ring a bell with you?---Yes, it does.

20 Had you ever seen anything like this before, I mean it's an unusual-looking map?---Not before, no.

THE COMMISSIONER: Not before what?---Not before Moses and Paul Obeid showed me the map.

MR WATSON: Could you return, fold up those maps- - -?---Sure.

- - -and return them to the Commissioner's associate. Mr Brook, did any of the Obeids ever tell you that they had access to information from a deep throat within either the Government or the Department in relation to these
30 matters?---Not specifically, no.

Did you ever hear them mention Ian Macdonald?---Only through the luncheon at Lehman.

Now Mr Brook if I return to something we were talking about earlier, that's the selection by you of a mining company, I've shown you some documents already?---Ah hmm.

40 If I return to that am I fair with this summary of your evidence so far, that you were given the task of finding a mining company which might provide a suitable mining company with whom the Obeids could deal in a mining venture?---Yes.

Did they suggest to you the proposal, the form of the mining venture in the sense that it was either through a partnership or a joint venture or through buying shares in the company? Did they make any suggestions along those lines?---Initially it wasn't specific. What was specific was they be a silent partner in whatever form it took.

All right. Well I better ask you about that. Let us also try and be specific. Was it a particular Obeid who was saying that or was there more than one Obeid who communicated that fact to you?---Moses, Moses was my main contact.

10 And do you recall Moses saying words to that effect to you, that is that they were to be kept silent in terms of the partnership?---The, the context for which this subject came up was that because – his explanation was, you know, we're a high profile family, we like to keep our interests private and that's how he explained it to me.

And so they wanted to keep it private but you used the expression before a silent partner?---Well I meant the same thing.

And to effect that did he tell you how he wanted it done?---Not specifically.

20 All right. So given your background and your training you had some skills in analysing companies, is that so?---Yes.

Now I'll have it shown to you again if you think you're at a disadvantage, but remember that document I showed you with the handwritten list of company names?---Ah hmm.

Did you use that as a source for your research?---Yes.

And did you look at the companies which were on it?---Yes.

30 Now some of them were private companies in the sense that they're nominated to be propriety limited?---That's correct.

And some of them are public companies in the sense that they were either designated as limited or NL meaning no liability. Is that right?---That's right.

Now I'll show you the list again if you're under any - - -?---No, I'm, I'm fine sir, thank you.

40 The – did you have a preference in carrying out your research for a particular kind of company?---Not a preference, no.

Not a preference per – by a name?---No.

But did – are there some companies which are easier to research than others?---Absolutely.

And could you describe to us the how and why?---Well public companies are on public record. Private companies - - -

If you move a little closer to the microphone?---Public companies are on public record.

So you're able to look at records which related to them to research - - -?---
On the internet and ASX and that sort of thing, yeah.

All right. Whereas a private company might be my company or certainly my, my records would be private not published?---Correct

10

So did you, because of that, focus on the public rather than the private companies?---That's correct.

And Monaro Mining No Liability was one of the public companies of course?---Ah hmm.

Is that so?---Yes.

And were you able to research it?---I looked it up, yeah, so - - -

20

Did you look at other public companies on that list?---I probably did but Monaro's stood out to me.

Why did it stand out to you?---They had made it known they wanted to diversify their business in energy from uranium to also coal.

Now when you say they'd made it known was this something that you were able to see on their website or something like that?---Perhaps. It might've been a - in their annual report or, I can't recall exactly.

30

All right. Well, so - I mean, I know nothing about this as you probably detect but a public company has to file an annual report which it needs to publish so that its shareholders or potential investors can look at it?---Yes.

And so you may have got the information from that source?---Potentially, yes.

Now, so what else attracted you to Monaro Mining apart from their wish to diversify into coal?---They were financially weak.

40

And why was that important?---As a investment bank our position to assist a more financially weak party was enhanced, we could make more money.

And it would make them vulnerable in a sense would it?---Well, they'd be more - - -

THE COMMISSIONER: Receptive?---Receptive to an approach from a big, you know, a big firm.

MR WATSON: Well, I asked you this before but in context I'll ask you again, before assessing these matters in respect of Monaro Mining did you know of a company before?---Had I heard of Monaro?

Yeah?---No.

And did you know Warwick Grigor who appears to have been the non-executive chairman?---No, no, sir.

10

Or Mart Rampe who was the, I believe the senior executive?---I did not know them.

Did you tell - I withdraw that. At some stage you did go forward and make contact with Monaro Mining?---That's correct.

Before you did that did you tell an Obeid that you had selected Monaro Mining?---No.

20

You did this - - ?---I don't, well, I don't believe so.

All right. Well, you went off. Monaro Mining's address would have been in the papers that you'd read I suppose?---Ah hmm.

Is that so?---Yes.

Do you remember where their office was for example?---In, near York Street.

30

I think it's called St Martin's Tower?---That's right.

Does that ring a bell?---Yes.

And did you go to their premises?---That's right.

Now, did you give any warning that you were going to come?---I rang them.

You rang them and you went down and you saw someone. Do you remember who that was?---I think initially it was Mart Rampe.

40

Rightio?---And - - -

You probably can't put a date on that now, can you?---Not precisely.

Well, I think I can show you a document which will help you. Could the witness be shown Exhibit J-16. Could I get you to open up Exhibit J-16 which is part 3, volume 1, page 115?---Yes, sir.

I'm going to stop this for a second, Mr Brook, because there's a document which relates to an earlier subject which I failed to show you?---Sure.

But it's in volume by good fortune at page 103, would you turn there. I'll take you back. This document actually relates to a time very soon after the initial meeting with Moses Obeid. You'll see that it is an email which is dated 8 July, 2008 and I'll just remind you you met Moses Obeid for the first time on 3 July, 2008?---Ah hmm.

10 And you'll see it's an email at least at the top of the page sent by Edwin Wong to you, do you see that?---Yes, sir, I do.

And then who was Edwin Wong?---He - I reported directly to, to Edwin.

Edwin Wong?---Yes.

And Edwin Wong was by the looks of it located in Hong Kong?---Yes.

At Lehman's?---He hired me.

20

He hired you and you would report to him?---Yes.

Now, if we look Mr Wong gives you a message but the actual email trail commences below that whereas as on Monday, 7 July at 7.33pm you'd sent through to Edwin Wong an email on the subject of high grade thermal coal, do you see that?---Yes.

Now you told us before that you knew nothing about coal before meeting Moses. Is that so?---Yeah.

30

Even by this stage and July 7 it's just a couple of days after the meeting?---Mmm.

Did you know differences or did you even know that there were differences in grades of coal?---Well prior to the meeting no but immediately after the meeting - - -

He told you, Moses told you about it?---Well I, I would've looked it up.

40 All right. But what I want to show you is your email to Mr Wong - - -?---Mmm.

- - - I think contains - well at least - three pieces of information. You're asking him whether Lehman's have any clients in Asia who wanted high grade thermal coal?---Mmm.

Now you went on to say that that would be by taking a small stake in a new mine in Australia. That's referring to the deal that Moses Obeid was proposing, was it?---Correct.

Would you have got the information that the kind of coal was high grade thermal coal from Moses?---Yes.

Now you wouldn't have known it yourself?---I didn't know what that was exactly, but - - -

10

And this is only a couple of days after meeting him?---Mmm.

The second sentence contains a reference to doing it in partnership with an established Aussie coal miner, then the third sentence contains a second piece of important information, "The resource is thought to be about 100 million tonnes." Do you see that?---Yes, sir.

Well would you have known that?---Moses Obeid told me that.

20

All right. Did he tell you how he knew the size of the estimated resource at Mount Penny?---He told me they were conducting due diligence through consultants, geologists.

The third important piece of information that you passed onto Mr Wong is in the second paragraph, "There are government tenders coming up." Do you see that?---Yes, sir.

That, too, is something told to you by Moses Obeid?---Correct.

30

You didn't know any of this yourself apart from what you were told by Moses Obeid, is that so?---Nothing about it.

All right. Thank you for that, sorry. Now I want to go back, and I'm sorry to have dragged you out of the chronology but I want to go back to when you make your first appointment with Monaro Mining?---Ah hmm.

It's exhibit J-16, it's part 3 volume 1 page 115. We've been able to recover an email from Lehman Brothers - - -?---Ah hmm.

40

- - - which seems that you've entered this into your electronic diary that you were going to meet Mart Rampe at Monaro Mining at a particular address at a particular time. Do you see that?---Correct.

Do you think that's probably the date you first met him?---Would, I couldn't argue with that.

And then if we look at page 112, I appreciate I'm going back in the book but this is the order in which they were copied, we've got a handwritten note

there that seems or was produced to us by Mr Rampe as being one of the notebooks that he kept at the time, and we have this entry about meeting Gardner Brook from Lehman Brothers on 15 July 2008, suggesting that you had clients in India and that you knew about Monaro Mining's interest in New South Wales coal?---Ah hmm.

And then there's a reference to a third party who wants to enter a joint venture?---Ah hmm.

10 Do you see that?---Yes, I do.

Is the joint venture the vehicle which has been described to you as the preferable vehicle by Moses Obeid?---That – well that's why I appreciated Monaro.

20 THE COMMISSIONER: Was that, but was that the idea to effect this investment through a joint venture? Whose idea was that?---As – Commissioner, Moses Obeid made it very clear when I first met him that they wanted to partner with a mining company to enjoy the benefits of it's success if there was coal there.

Yes. And they didn't want to do any work themselves I take it?---Well, they had no experience in it for a start.

Quite so, yes.

30 MR WATSON: Now, you'll see there that Mr Rampe has made two notes pursuant to a conversation he's apparently had with you. The first is that, "Do not want operational control." And that seem a reference back to the third party. Is that a reference to the Obeids?---Yes.

And then finally his fourth point there is that Lehman and clients- - -

THE COMMISSIONER: I think that's passive investor?

MR WATSON: Sorry, sorry, I didn't deal with that. The second note is that it was a passive investor. Is that so?---That's right.

40 So the Obeids were going to invest but- - -?---Well, they just- - -
- - -be kept away from the management?---They just wanted to be involved if a deal came about.

THE COMMISSIONER: They just wanted to make the profits?---Correct, sir.

MR WATSON: Now, I need to show you something here in the hope of clearing up what seems to be an anomaly. Would you turn to page 26 of that same bundle. Do you remember Barry Yin?---Yes.

Do you remember that he had a person with whom you dealt called Jane?
---Yes.

And she had a Chinese name but everybody called her Jane. Is that correct?
---That's right, yeah.

10

This page 26 is a note that we got from Mr Rampe and it's dated 7 April, 2008, which if the first time you met him was in July 2008 would be impossible?---Sorry, sir, could you repeat that?

What it is is that this is a note made by Mr Rampe?---Ah hmm.

And I'm going to suggest to you that he's made a mistake in dating it. It's dated up the top that there's a meeting between Gardner Brook and Warwick Grigor and presumably Mart Rampe on 7 April, 2008?---Yes.

20

But your evidence is you didn't meet him until July?---Yeah, that had to be 2009.

And I think if you look at the first entry you'll see that there's reference to Barry Yin?---Yes.

And in the second entrance to Barry and Jane. They only came on the scene much later, didn't they?---That's right.

30

Is there a possibility that this should be 7 April, 2009, do you think?
---I would believe so, yes.

But in any event, in case anybody pointed to it as an anomaly or to contradict your evidence, you certainly hadn't met Rampe, Grigor or anybody at Monaro Mining before July 2008?---No.

All right.

40

THE COMMISSIONER: And did you know Barry Yin then?---No, sir.

MR WATSON: It just seems as though it's an error and we'll take that up with Mr Grigor or Mr Rampe. Now, in that same volume, Exhibit J-16, part 3, volume 1, could you go to page 117. This is the very next day where you've sent an email to another person at Lehman Brothers named Shaun Ansell asking for a CA, that's a confidentiality agreement. Is that so?
---That's right.

Now, after meeting with Mr Rampe did Mr Rampe direct you that you should speak to the chairman, Warwick Grigor?---I, I, yes, yes.

And you've asked Mr Ansell to prepare a confidentiality agreement. Do you see?---Yes.

And you'll see that there's a description in broad terms about the subject matter?---Yes.

10 Now, why would you need a confidentiality agreement between yourself and Monaro?---It's just common probity practice.

All right?---Monaro weren't a client so it was just practice.

Well, this is part of the point. Moses Obeid has told us in no uncertain terms Monaro – well, that was a pre-existing client of Lehman's. Does this suggest to you that they were not?---I know they weren't.

20 But does this confirm that?---Yes.

And then if you go to page 118 you'll see that there's a note sent through to you that Warwick Grigor is in reception. And so you met him at Lehman's on 16 July. Does that look to be the case?---Must have been, yes.

And so then when you met with Grigor you discussed with him the same project. Is that so?---Yes.

30 Now, when you met with Grigor did you, what did you tell him?
---I told him that I'd met some landholders in the Bylong Valley who had formed an alliance and through their due diligence believed that some tenders were coming up and that Monaro Mining was a potential candidate to be invited.

Did Mr Grigor know that fact or did he indicate that he knew or did not know of that fact?---He said to me that being invited didn't surprise him because they had been lobbying the DPI for a couple of years to enter coal.

40 And did you mention anything to Mr Grigor to the effect that the person with whom you were dealing was Moses Obeid or his family?---No.

You kept that as a secret?---Under the instructions of Mr Obeid, yes.

Mr Grigor has told us that he asked you who was the party behind it and you said to him, "Next question." Does that sound right?---No.

Meaning don't ask who's behind it?---No, that doesn't sound right to me.

All right. Did you - - ?---That's not something I would say.

THE COMMISSIONER: But you did refuse to disclose the identity of the investor?---I told him that they wanted to remain silent.

All right?---Or confidential.

Their identity not to be disclosed, is that what that means?---Correct, sir, yes.

10 MR WATSON: Well did you propose a certain kind of transaction? For example we saw the reference earlier to a joint venture in Rampe's papers. Did you propose a joint venture to Grigor?---Well the idea was that – well conceptually that the land holders alliance will JV with that in the event of there being an EL awarded, you'd have Monaro, the alliance and another investor be it Lehman or a Lehman client or another party. It was conceptual.

All right. So did you make any suggestion to him about what the obligations of Monaro would be in such a transaction?---I, again, sir, I
20 wasn't familiar with mining but they were miners.

Did you raise any issue of – or did Grigor raise any issue – about the proportion of the joint venture which would ultimately come to be owned by any of the three parties who were involved – the Obeid, Lehman's or Monaro?---I'm sure it would've been discussed.

Did you tell Mr Grigor that if Monaro participates that it's almost guaranteed to succeed?---No.

30 Did Moses, by this stage, this is by the stage of first meeting with Monaro, had he told you something along those lines that if a pitch is put forward he can almost guarantee that it would succeed?---Not in those exact words. He suggested that by having the alliance if the miner didn't JV would make it very, very hard for them to carry out operations.

THE COMMISSIONER: That's a different matter. They've first got to – the miner's first got to get a licence?---Correct, sir, yes.

40 So did he not tell you anything about the prospects of a selected miner getting a licence?---Moses Obeid is a very confident man and he indicated to me that by having the alliance it would have great influence on being able to achieve a JV with a mining company.

I understand that, Mr Brook, but we're asking you about a different issue. Before you can have the JV with the miner you've got to get the licence?---Correct. He didn't, he didn't say, you know, it's a done deal.

Did he say anything about the prospects of a selected miner getting the licence?---He believed that - I'm trying to recall, sir, so please excuse me.

Yes, take your time?---I think the conversation was more phrased that if a miner had an alliance or a joint venture or an agreement with the landholders it would be more likely to succeed in a bidding selection process.

10 MR WATSON: All right. Well, what happened was you had your meeting with Grigor and he was attracted to the proposal, is that so?---Very.

And I think between the two of you you came up with an idea that there would be a letter written by Monaro Mining making a proposal to Lehman's, is that so?---Yes.

Now, there are a number of drafts of this is in here but what I'm going to do is just show you a couple and when I do so I want you to tell me if I'm wrong with this, as I read the drafts what effectively happened was you ghost wrote the letter for Grigor which he then put on Monaro heading, paper, and sent it to Lehman's, is that fair?---I, I recall that, yes.

Well, I'll show you in this, Exhibit J-16, that's party 3, volume 1, page 173? ---Sorry, which page is that?

173. And what you'll see is that this is regarding - I can show you the earlier drafts if needs be but it seems as though you and Grigor were exchanging emails when he was travelling and he was going to Qantas Club or something like that so that's why it said "off to airport" and you sent through to Grigor this email on 22 July, 2008 at 11.17 and you've said, "Please find attached the amended letter"?---Ah hmm.

And then if you go over to page 174 you'll see that's a copy of the document you sent to him so in effect you'd written a letter to yourself on behalf of Grigor and sent it to him so he could send it back to you. Do you see that?---Yes, I do.

And then if we look at page 176 we can see that this is a follow up that Grigor had emailed you back at 12.07 and said "Got it, ready to send it back, hitch with the letterhead" and then if you turn over to page 182 we can see the end product which is in effect or what to the world would seem as though it was a letter from Monaro Mining No Liability addressed to you at Lehman Brothers dated 22 July, 2008?---That's right.

Now, what I want to show you as part of that letter is that the first paragraph is actually five lines long, there's a failure to put a gap between it and the second paragraph but you'll see that the first paragraph has also got two sentences in it. The second sentence commences with the words "It is in this regard", do you see that?---Yes, sir.

Now, it's in this regard that Monaro's seeking Lehman's support to tender for certain thermal and coking coal tenements which are expected to be promoted via a closed tender process within the next 30 days?---That's correct.

You'll see that?---Yes.

10 Is that information which - well, it seems as though it was your draft so that's information you've been given by Moses Obeid?---Correct.

So you had a rough idea when the government was proposing calling for these matters?---Well, but that's - - -

THE COMMISSIONER: Or you had a specific idea, you knew it was within the next 30 days?---That is what Moses must, must have told me.

20 MR WATSON: All right. I was just interested where you got that information from. Now in any event you used that as a request by Monaro to go back to Edwin Wong and put a pitch to him about the deal. Is that so?---Yes, sir.

And we can see that on page 215 of exhibit J-16, and there are a number of emails covering it. They go between page 215 and right through to 2.23. What happened was you engaged Rodney Pryor at Lehman's to help you with putting a pitch to - - -?---Yeah.

30 - - - to Edwin Wong? And we can see the work of Mr Pryor at page 217 and following. He's a kind of expert analyst, is that so?---Yeah, he is.

And you'll see that at page 218 it even schematically describes the proposal?---Yes.

And the land related entity in that is the Obeids, is that so?---Correct - well the alliance as they were referred to.

All right, well the alliance?---Yes.

40 And so you put the pitch to Edwin Wong but I think he turned it down, is that so?---He didn't - well in banking, sir, you need to be tenacious, and - - -

What, just because he says no you come back at him, do you?---Yes.

All right. Well the point is that we know - you and I know - that we're coming to a point where Lehman's are soon to collapse so in the end Lehman's didn't do a deal with Monaro?---Well, sir, Edwin knew more about the situation than me.

Yes?---Yeah.

Well what I want to ask you about is to this point in time. We're at the point of time where you and Grigor through that letter and your emails to Edwin Wong – this pitch had been put on behalf of Monaro to Lehmans. Now just at that point in time you had discussions with Moses Obeid, is that right?---Yes.

10 You'd been, by this stage, given documents by him including the document with the handwritten list of companies?---Yes.

And by this stage you'd also spoken, had you, to other members of the Obeid family?---I'd met Paul and Gerard.

Now when you met Paul – lets just deal with them separately. You met him in the context where you discussed this deal, this proposed deal which I might call the Mount Penny deal?---Yes.

20 And did Paul contribute anything, I mean did he look as though he knew what was going on?---Yes.

And did he participate in the discussions as though he was – he was aware of what had been proposed?---Well they were acting in unison.

And you met also with Gerard?---Well Gerard was there as well.

Same thing?---Yeah.

30 When you met with these fellows, Paul and Gerard, by this stage – that's by the stage you're putting the pitch to Edwin Wong – had you met with Paul and Gerard once or more than once?---I could not be certain, sir, it might've been once, twice, thrice.

But at least once?---Yeah.

And they'd manifested a full knowledge of the nature of the transaction through Mount Penny?---They had explained to me that they'd formed an alliance and they were looking to sure up a potential joint venture.

40 Now when you met with them, that's Paul and Gerard as well as Moses – it was the three of them at once, was it? For example did you ever meet with Paul and Gerard at, without Moses?---I don't think that ever happened. I think Moses was always there.

There was one meeting at least at the Wentworth. Do you think there was more than one?---Well - - -

THE COMMISSIONER: If you can't remember, just say so?---I can't remember, sir.

But it's possible as I gather from your evidence?---Yes.

MR WATSON: And could I just ask you this, have you got any specific recollection where it was that you met – where the three of them were present? That's Paul, Gerard and Moses?---At the Wentworth.

10 That was at the Wentworth?---Yeah.

That wasn't the first meeting with Arlo Selby?---No.

That was with Moses alone. So there must've been a second meeting at the Wentworth?---There were several meetings at the Wentworth actually.

20 All right. Now would you close up at that folder and I want to move to a new subject, and I'm going to ask the Commissioner's associate to show you exhibit J-1A. It's just been renumbered but exhibit J-1, part 1 volume 4. Yes. It's exhibit J-1 but it's volume 4. It's now J-1A but, sorry it's – it's not – it's what was exhibit J, volume 4, there has been no opportunity yet to remark them with the letters, but this is what was exhibit J-1 part 1 volume 4, I'd ask you to open up at page 909.

THE COMMISSIONER: It's now Exhibit J-1D.

30 MR WATSON: Thank you. 909. This is something which is in the handwriting, we've had it confirmed, of a solicitor, Chris Rumore. Do you remember Chris Rumore?---Yes.

And Chris Rumore was a partner at Colin, Biggers. Is that so?---That's right.

Now, who introduced you to Chris Rumore?---Moses and Paul Obeid.

40 All right. Now, I understand that Moses and maybe Paul as well are going to say that you were still at Lehman Brothers and you said, look, I need to be introduced to a solicitor and they suggested Rumore could act for you. Is that right?---No.

All right. But did you understand Rumore was acting for the Obeids? ---Yes.

Now, have a look at page 909. You were not present at this meeting but it seems to suggest that Rumore, Moses and Gerard Obeid were present and then there was a reference to this, "Deal with Tianda is off." Do you remember the Obeids telling you about an attempt that they had made to put

together a deal with a company called Tianda Resources?---I do recall them mentioning it, yes.

Yesterday we had some evidence where there was something said about Mr Fang which I think was a bit unfortunately, but he was given a nickname. Did you ever meet Alan Fang?---No, I don't believe so.

Did you give him the nickname, "The infamous Mr Fang?"---No, that's not something I- - -

10

I feel sorry for Mr Fang?---I don't know the man so- - -

Anyway, but so you didn't know him?---No.

Did the Obeid family ever describe to you their familiarity with a Chinese mining entrepreneur related to Tianda, could they have attempted to describe him in broad terms but you've forgotten his name?---I don't recall any such conversation.

20

But anyway, you do remember something about- - -?---I remember- - -

- - -the Tianda proposal?---I remember them, I remember walking with them and the name Tianda came up, a very long time ago.

Anyway, although it's hard to read we know that this file note was made by Mr Rumore on 18 July, 2008, so this is pretty soon after your first meeting with Moses and very soon after your first meeting with Monaro Mining? ---Ah hmm.

30

If you read on, I know you're not there, but apparently what the Obeids told Mr Rumore was that there's a fellow, Gardner Brook at Lehman Brothers who has a telephone number and an email address, then there's a reference to Monaro, Monaro Mining No Liability, a uranium miner. And that's what you had discovered through your research. Is that so?---Yes.

And then that Monaro Mining was looking for a coalmine. That's exactly what you'd discovered by your research and also by your discussions with - - -?---Well, Warwick Grigor confirmed that.

40

Yes. And then there's the broad terms of a deal put up. Lehman Brothers option regarding 60 per cent, Monaro Coal is to be only exercisable (a), once, and this could be either mining company, but it could also be Monaro Coal, "Once MC wins right to mine pursuant to EOI." Do you see that? ---Yes.

Now, that expression, EOI, we've had bandied around in here, was it an expression or an acronym with which you were familiar before you ever met an Obeid?---No.

Did they tell you specifically about EOI in the context of the Government tenders?---No.

All right. If you look over at page 910, the second part of the circumstances in which the option would become exercisable is if the, and it might be the mining company, buys the three Obeids property, properties at a multiple three or four times the valuation. Do you see that?---Yeah, I do see that, sir.

10 And then the third is that at the time of exercise Lehman Brothers directs the mining company or Monaro Coal to issue 15 per cent of the shares to Lehman and 45 per cent of the shares to the Obeids?---I see that.

So this is, does that send your mind back to what might have been the initial upfront negotiating position of the Obeids?---Possibly, sir. Whether they discussed it with me I'm not certain.

20 And then you'll see a reference in the way that Mr Rumore makes his notes, that dash to the side indicates he's making a new point and it's to the effect that Lehman Brothers was going to use Clayton Utz and that in fact was one of the firms of solicitors who Lehmans commonly used?---Yes.

But in this instance Monaro Mining used Clayton Utz, is that so?---Ah - - -

Do you recall?---I think so, yes.

And there's some other references. If you go to page 912 there's a schematic representation of the deal. Do you see that?---I do see that.

30 Now, you might want to put it in a way that you can read it easily - - -?
---Yeah.

- - - but it's really not so easy to understand what's going where but we can see some references. The top left-hand column, "Monaro Mining No Liability owns Bidco". Now, Bidco is just a way that you fellows in your industry refer to a new special purpose vehicle which is going to be created to make a bid, is that so?---That's right, sir.

40 And then Monaro Mining ultimately owns 40 per cent and then we can see that the Bidco is identified, it's going to be Monaro Coal Australia, do you see that?---I do.

Now did you prepare this?---No.

You'll see, however, it does have in schematic form some reference to the general proposal. It says that Monaro Mining No Liability was going to give an option to Lehman Brothers to take 60 per cent of Monaro Coal and then in turn something called Union Resources, do you know what that is?

---No.

Ever heard of that before?---It doesn't ring a bell.

"Lehman gives Union option to acquire 55 per cent of the shares in Monaro for \$100"?---It's the first I've seen this document, sir.

Yes.

10 THE COMMISSIONER: So it's not your handwriting on it?---It's not me, sir.

MR WATSON: Well, it was a document that Mr Rumore received apparently at his meeting with the Obeids. You can't shed light on who Union Resources was?---No, sir.

Or if we look in the right-hand side it says "Banker lends \$5 million to GSK". Do you know what GSK, if that's a person or a company?---Well, sir, obviously I've been following this pretty closely and, Greg Skehan I think.
20

Well, that's probably not right, he's G - - -?---Oh, okay.

He's, he's - - -?---I don't know then, I don't know.

Yes. He's GAS but the thing is that it could well be a combination of letters, we just don't - - -?---I don't know, I really don't know.

Well, anyway, I won't torture you any more with that, it's not your document?---I've, I've never seen it before.
30

Well, what I will torture you with is the next one. Exhibit J-1D, part 1, volume 4, page 916, so it's the same document, page 916.

THE COMMISSIONER: It is J-1 the - yes.

MR WATSON: And you'll see that this is again the same sort of handwriting, I want you to assume it's Mr Rumore's note of 23 July, 2008 of a meeting where there was Moses, Gerard, Paul and yourself - - -?---Yes.
40

- - - all at Colin Biggers & Paisley. Does that help you remember something?---Yes, it does.

And then you'll see that there's a reference to a special purpose vehicle, that's what SPV means?---Yes.

And SPV between Lehmans and landowners?---That was the concept, yes.

And then the next is “query NAD”. We think that that’s a solicitor, Nicholas Di Girolamo, a partner at Colin Biggers. Did you ever meet him?
---I’ve never heard of him.

All right?---No.

And then there’s a discussion about how shares are to be held and there’s going to be a bare trust and then down the bottom Clayton Utz is going to act for Monaro, et cetera, et cetera. You were there discussing this transaction in some detail with Mr Rumore with the Obeids, is that so?
10 ---I was in the meeting.

Yes. If you look over at 917 there’s a reference which we think might be important. It’s actually the fourth point that Mr Rumore’s making and it reads this way, “Finalise Monaro option by 29 July, 2008 as dates are opening of government’s EOI campaign.” Do you see that?---Where, whereabouts is that?

Page 917 of the bundle?---Yeah.
20

Just below halfway in the page?---Yeah.

Dash, “Finalise Monaro option by 29 July 2008 as dates were opening of government’s EOI campaign.”?---Right.

So, I mean, would that have been coming from you or coming from the Obeids?---Coming from the Obeids and Rumore.

All right. Well Rumore tells us that he just writes down what he’s told?---
30 Okay.

And somebody knew, did they, when the government proposed opening the EOI campaign?---The Obeids.

That date 29 July 2008, does that help you at all?---Sorry 29 July?

Yes.

THE COMMISSIONER: It says on the note, Mr - - -
40

MR WATSON: It’s on the note?---It’s not.

You didn’t know a particular date, did you?---No.

We’ve got some information that it seems as though the government had proposed, at least originally, that the EOI campaign would be opened at the end of July 2008, that was their initial plan?---Right.

Did the Obeids ever tell you where they got information of that kind and specific character from?---Not, no, not specifically.

I suppose you've said that you've been following this thing closely. I suppose you, I might as well wreck the whole story and come to the punch line. Did the Obeids ever tell you that they were getting information from the Minister himself, Ian Macdonald?---No, they didn't say - - -

Never revealed that?---No.

10

You see, yesterday Arlo Selby produced a rather strange document and – sorry, he didn't produce it but I showed it to him. And in it he suggested that the Obeids had said that, that they knew Macdonald were getting – was getting information from him - - -?---Mmm.

- - - and that they could guarantee success because in the terms Mr Selby used, Macdonald was in on the deal. Did you hear anything about those lines?---No.

20

Mr Brook you did, however, hear the Obeids say words to that kind of effect that they knew when the government was going to open the EOI campaign? ---Yes.

And they were using language as specific as EOI?---Yes.

Meaning they knew the kind of government process which had been proposed?---That's right.

30

Could, could I just take you in the same exhibit to page 932? This is again a file note by Mr Rumore. This one unfortunately is undated but we can work backwards, we do know that it had to be a meeting which was after 28 July 2008 and we can see there that it's a meeting where Moses and Gerard Obeid were present and so were you?---Ah hmm.

Do you see that?---Yes, sir.

Now the proposal here is an option for 80 per cent of shares in Monaro Coal so that that was a subsidiary which was going to be set up, is that so?---That was the intended vehicle to make the bids.

40

And then that was going to be given to a GAS company and that's Gregory Allan Skehan, we've already got that information. And then Skehan's company, follow the note, would then introduce the joint venture partner and give part of it's shares to this joint venture partner, do you see that?---Yeah, I do.

Do you – can you explain to us what that meant, do you remember now?---
There was an option agreement, the Obeids were very specific about
assuring up their participation in a winning bid.

THE COMMISSIONER: Sorry, I beg your pardon?---A winning bid, sir.

They wanted to sure up their participation in whatever bid won?---If, yeah.
If Mount Penny, if Mount Penny was won, they wanted to make sure they
would – at an equity level – be involved.

10

Won by who?---Pardon?

Won by who?---Well at this stage we're talking about Monaro.

MR WATSON: At these meetings we know that it was resolved that certain
companies be set up and the partners at Colin Biggers & Paisley would
become trustees in effect holding the companies for the benefit of the
Obeids, and we know also that you were present while this was being
discussed because of that reference there that you see to the GAS company.
20 And what's more, you'll know that it came about because you know about
Voope Pty Ltd. Is that right?---That's right, sir.

Now, can I ask you, whose idea was this, that there should be these trustee
companies created?---The Obeids and their lawyers.

Well, was it, who was, who was proposing it, as it were, was it the Obeids
or was it the lawyers' idea out of the blue?---A lot of this I was a observer.
It was the Obeids and their lawyers.

30 Well, in the end these vehicles were used, two companies which in effect
operated as trustee companies- - -?---Right.

- - -for the Obeid interest. Can you remember the Obeids asking for that to
be done, for example you mentioned before their desire for privacy?
---That was always the intention, yes.

Well- - -

40 THE COMMISSIONER: Was that discussed with Mr Rumore?---Yes.
Why else would you do it?

MR WATSON: Well, that's not a bad question but can I put it this way. If
I put it this way, please feel free to disagree with me. Was the proposal to
use these companies, these trustee companies, put forward by the Obeids as
a means of concealing their involvement in the various transactions?
---Yes.

Now, could I ask you to close that folder up and return it and then I'll ask that the witness be shown Exhibit J-17. And I just want to show you in Exhibit J-17, part 3, volume 2, page 311, a particular document?---Yes, sir.

You'll see that that's the first page of an option deed regarding the shares and it was between- - -

THE COMMISSIONER: Sorry, Mr Watson, what page is it?

10 MR WATSON: Page 311.

THE COMMISSIONER: Thank you.

MR WATSON: You'll see that this is a deal done between Monaro and Voope and I just want to show you some of the parts of it. Were you there when these, these sort of critical deals were done? You were there with Monaro on one hand and with the Obeids on the other. Is that so?---Well, I was brokering the deal.

20 Well, this particular one I'm going to show you seems like a very peculiar deal indeed. If you look at page 313 you'll see that there are certain things which lawyers call recitals, but A through to E are stated to be the background to the deal. And the first is that the grantor, and that's Monaro Mining, is the owner of the share capital in the company, and I can tell you that that's defined to be Monaro Coal Pty Limited. Would you accept that for me, from me?---Yes.

30 In B it says that the grantee, that's Voope Pty Limited, is assisting the company in relation to an application for tenements. Now, I want you to assume that the tenements are defined to mean or include an Exploration Licence which might be granted, and then in D it says that the grantee, that's Voope or the Obeids, has material interest in ensuring that Monaro Mining secures a tenement. That's as you understand it a pretty fair statement of the background. Is that so?---Yes.

Now, if we turn over the page, I'm so sorry, I've given you the wrong – this is a draft which was later corrected. I'll have to, I'll have to find the actual document. Yes, sorry, it's further in the, it's page 328 of the same Exhibit. So sorry, Mr Brook?---Not at all, sir.

40 You'll see at page 328 it's the document, page 330 you can see that they've filled in the date, this was sign on 20 August, 2008. Now, I want to assure you we have hard evidence that the Government announced the EOI campaign on 9 September, 2008, so this is being signed, well, as you can see, 20 days before?---Mmm.

And you'll see that the background is more or less the same but actually some of the definitions are different. This is the actual amended document.

Page 331 you'll see that the tenement is actually defined as being, for example, an Exploration Licence which was granted pursuant to an invitation issued by the department at any time after the date of the document. So at the time this was being signed up by Monaro Mining on one hand, by the Obeids on another - - -?---Mmm.

- - - it was well and truly known that the government hadn't even announced what they were going to do?---Well I can see that, yes.

10 Well can you explain that?---No.

You see you would know because of your background of the expression insider trading?---Yes.

And you would know of the expression insider information?---Yes.

Or inside information?---Yes.

20 What I'm going to do is just use that expression inside information. Was it intimated to you that the Obeids were acquiring inside information relating to what the government was proposing to do?---Well they certainly knew ahead of time. I took comfort in that they were using consultants and talking and they knew people and their lawyers were drafting the documentation.

Well - - -?---I didn't think anything of it.

- - - you didn't ask them where they were getting their inside information?
---I didn't follow that.

30 THE COMMISSIONER: Did it occur to you that they were getting inside information?---It didn't occur to me.

MR WATSON: I mean this is a very peculiar document then because it's saying we're agreeing to do something when the government announces it sometime in the future, and for a fact we know the government only announced it sometime in the future?---At this stage, sir, the whole transaction as far as I was concerned was hypothetical.

40 Well could I show you on page 331 there's a definition of consideration? And consideration, well that's a lawyer's word but it means quid pro quo or what I'm doing in return for what you're doing. And you'll see here that the consideration was defined to mean – now this is consideration which in the transaction is provided by the Obeids to Monaro Mining. It's to include consultancy, general assistance and advisory services. Mr Brook, am I right in thinking that the Obeids knew absolutely nothing about coal mining?---I didn't draft this document.

But as a fact did the Obeids know anything about coal mining?---I don't believe so.

Were they in it, to your knowledge at least, in any position to provide consultancy or general assistance or advisory services which would be of any benefit in a mining transaction?---Not to my knowledge.

10 Can you put me out of my misery, Mr Brook, and tell me what it is that Monaro Mining got out of this deal, do you know?---Well the intention was that they would get a 20 per cent stake in the event of success of a mining operation.

THE COMMISSIONER: But what was Monaro – why were the Obeids getting the balance?---Well - - -

What had they done to deserve the balance?---Well they were providing the land and also at this stage - - -

20 But they weren't providing the land?---At this - - -

They were not providing the land, were they?---Well they - - -

Monaro wasn't buying the land?---They were participators – well the Obeids had an alliance and so it was inferred, I guess, that they would participate in a JV. The 80 per cent was also to allow for a financial - - -

MR WATSON: Farming?---Farming.

30 Right. Well, look, I'm going to put this deal a little differently to the way you put it. I asked you what's in it for Monaro Mining. They weren't getting 20 per cent, they were giving away 80 per cent, weren't they?---Well, yeah.

40 And they weren't getting anything in return. If you look at it the consideration which had previously been defined to mean \$100, they didn't even get \$100, they got some worthless advisory services provided by a family who knew nothing about coalmining, they were getting nothing were they?---I think the - well, I think the intention was that in the event of this transpiring that Monaro would have a minor interest in a coalmine.

THE COMMISSIONER: But what were the Obeids doing to ensure or help Monaro to get this licence?---Having the - they, they explained it to me by having the land.

But you know that that's not right. Having the land has nothing to do with getting a licence?---Well, sir, I didn't know - I mean, this was their deal.

But we're trying to find out - - -?---Yeah.

- - - why it is that Monaro was prepared to give up 80 per cent of a licence which it might get in the future to the Obeids?---Well, I am really trying, I'm trying to - - -

MR WATSON: It's really hard to find anything?---I'm trying to - - -

THE COMMISSIONER: Does this document provide an undertaking by the Obeids to cooperate with Monaro if they get the licence in relation to
10 access to their land and the use of the land?---I didn't draft - - -

Well, do you know whether it does?---I don't know whether it does or not.

Was that something that was discussed at the meetings?---I cannot recall exactly.

So the land had nothing to do with this, did it?---I can't be sure, sir.

Well, you can't think of anything said which suggests that this was part of
20 the consideration and I don't think there's anything in the document which suggests that?---They had control of the, of the property. That's what they represented.

But why wasn't - if that was to be part of the consideration you would expect, I presume, as an experienced merchant banker if that was to be the consideration that that would be recorded in clear terms in the agreement?
---Again, sir, you're right but I did not draft this or have anything - - -

But you were the merchant banker who's brokering the deal and it is a
30 matter of considerable curiosity on the part of the Commission as to why Monaro were prepared to actually give up 80 per cent of their interest in the licence should they get it to the Obeids. What were the Obeids doing that was worth 80 per cent of the shares?---I can't answer that question, I don't know the answer.

Were you not curious about this?---I am.

Were you at the time?---I was focussed on trying to get involved in a deal.

40 Weren't you amazed that Monaro were prepared to give up 80 per cent?
---Not really because - - -

Why not?---To finance a mining operation - - -

MR WATSON: Oh, sorry, don't say that because you can have a look at the document and Voope does not have to put in a penny?---Right.

Do not - - -?---Okay.

- - - worry about that. It's not that, so go on?---(No Audible Reply)

I can take you through the document, I've read it to try and work out what Voope has to do. If you look at page 333 in paragraph numbered 3 there's an option granted and Voope does not even have to take it up. It's got two years before it expires so that's two years of uncertainty, two years in which Monaro Mining might have met all of the costs of exploring and then if you look for example at clause 6 you can see that the grantee, that's Voope,
10 Voope can nominate another person but Monaro Mining couldn't. And if you look at 7 Voope can assign the agreement but Monaro Mining can't and if you look at 8, the reference to the tenements, there are seven and each one of them is an obligation passed upon Monaro Mining, not one of them is an obligation passed upon Voope and if you look at 9 there's a warranty given by Monaro Mining which is not answered by a corresponding warranty from Voope. Can I suggest to you that looking at this agreement it's from the position of Monaro Mining crazy, a completely crazy deal?---Sir, I had no experience in these things.

20 Well, I've explained to you now and you're an expert in this sort of area, I mean- - ?---Well, not in mining, no.

No, but in this one, I mean don't worry about mining, just imagine it's a birthday cake and Voope owned it, sorry, Monaro Mining owned it entirely and somebody they don't know, some \$2 company came along, they're just giving away 80 per cent?---Mmm.

It's just a crazy deal, isn't it?---(No Audible Reply)

30 THE COMMISSIONER: It's only explicable, and you're nodding your head in agreement?---Yes, sir, I- - -

It's, it's perhaps only explicable if there was some secret consideration that the Obeids were giving?---I have no recollection of that, sir.

And the secret consideration could be making sure that Monaro gets the licence?---That wasn't, I wasn't a party to that.

MR WATSON: Well- - -
40

THE COMMISSIONER: I'm not suggesting that you were, but didn't you know about that?---No.

Nothing?---The Obeids were very confident of winning the bid because of holding the land.

But- - ?---That's what they were telling, telling me.

MR WATSON: Well, they were a bit more confident than that, Mr Brook. I want to read to you some evidence, and I wonder whether, Commissioner, you would give me relief from any suppression order which applies to the transcript of Mr Brook's evidence on 12 March, 2012, between pages 259 and 262.

THE COMMISSIONER: Yes. The suppression order will be varied to that extent.

10

**#THE SUPPRESSION ORDER WHICH APPLIES TO THE
TRANSCRIPT OF MR BROOK'S EVIDENCE ON 12 MARCH, 2012,
BETWEEN PAGES 259 AND 262 IS VARIED**

MR WATSON: I'll read to you some evidence that you gave on an earlier occasion. This is me, question, "Were you told by Moses Obeid that Monaro would be favoured?" Answer, "He indicated to me that Monaro would be favoured for Mount Penny." Is that the fact?---Yeah.

20

Did that happen?---Because the submission would have included a reference to the landholders being involved.

Well, the- - -?---That was my intention.

All right. Well, I'm not sure whether that's- - -

THE COMMISSIONER: What page are you looking at, Mr Watson?

30

MR WATSON: That was at 259. You know, I don't want to be unfair to you. Page 261 the Commissioner asks you a question. Question, "Yes, but why would Monaro be favoured?" Answer, "Well, presumably because Mr Obeid had influence over the process." What did you mean by that? ---Well- - -

40

Well, can I put another one to you. Page 262. Again, oh, this is question by me. "Isn't the truth this, you were told by Moses Obeid that in effect he could arrange it so that Mount Penny was awarded to Monaro." Answer, "I think that's a fair statement, sir." And then I asked you another question which I put too highly I said, and I asked you this question, "You knew that the Obeids were sufficiently confident that Monaro would succeed so that they were entering complex financial transactions with Monaro. Is that right?" Answer, "The Obeids were very confident."?---That's right, sir.

Throughout the whole thing were you being told by the Obeids that they expected that that would win Mount Penny?---Not absolutely.

Right. Well, they were very confident they would?---Very very confident.

Did they tell you, what was the basis for their confidence?---It was the landholding.

Look, I've looked at the Expressions of Interest which were lodged by Monaro- -?---Mmm.

- - -and for that matter lodged by everybody. It doesn't refer to the landholding you see?---Right.

10

It wasn't a consideration which was relevant to the Department of Primary Industries, but that's what you had assumed, was it, the land holding?--- Yeah. That is what I assumed.

THE COMMISSIONER: Can I just ask another question on this issue? You only investigated Monaro as a likely company to do this deal, is that not correct?---That's correct.

20

And I put this to you at page 261 of your compulsory examination?---All right.

30

"The reason why you were confident and the Obeids were confident – sorry, let me start again – the reason why it wasn't necessary to investigate any other company was that the deal had been done with Monaro and that's what satisfied the Obeids." You said, "That would, that would, that's, that, yes." And I put to you, "And once the Obeids were satisfied they were able to get – use their influence to make sure that the company with whom they had done a deal would be favoured?" You replied, "Sir, I think that is the case." And I asked, "And that's what you were told by Moses?" And you replied, "Yes."?---Yes, sir, I recall that now, yes.

So that evidence – you stand by that evidence?---I do.

40

MR WATSON: I'm going to tell you something, Mr Brook. What we've got here is you at a level of intimate connection with the Obeids and the transaction from an early point. Secondly we've got some evidence of – well maybe of questionable value from Mr Selby yesterday that the Obeids were saying they were confident because they had the influence of the Minister on their side. Thirdly we've got Monaro Mining entering one of the most crazy transactions you could ever enter – apparently an experienced mining company. And then fourthly we've got your repeated expressions of confidence to people at Monaro. We've got some of those in writing I can show them to you. I'm really coming to this, Mr Brook, and please rest assured you're not the principal person in our sights. You knew that the Obeids had inside information, they did, didn't they?---I believe so.

Is that belief based on the fact that a member of the Obeid family told you that?---Yes.

Who told you?---Moses.

What did he tell you?---He said that they – I can't remember the exact words, but he was always very, very confident about everything.

10 Was it in this context – did he ever say to you, for example, the source of those documents were shown to you high level briefing documents from the Minister, did he ever actually tell you where he got them?---He didn't say that specifically I don't believe. That would've scared me.

All right. I'm going to move on, you may be relieved to know. Lehman's collapses, we know, 15 September I think it was that year, and after that you entered into a transaction with the people at Monaro Mining or at least Grigor and Rampe that you would be retained by them as a consultant to try and find international financing which would support their bids, is that so?|
---That's right.

20 Now I need to at this point introduce another name, Andrew Kaidbay. You knew him?---I was introduced to him by Moses.

All right. Kaidbay had come by on the very day that you met at the Wentworth?---Yes.

You met with him. I think you did know Kaidbay before that did you not?
---Yeah, I'd met him before.

30 Right. Sorry, you weren't introduced to him by Moses, was it - - ?---Sir, please let me correct that?

Yeah?---The day I met Moses, Andrew walked past. Andrew told me afterwards he was surprised to see me meeting Moses because he had intended to introduce me to Moses.

Right?---Yes.

Kaidbay was a fellow who you got to know very well, is that so?---Yes.

40 Through, through this whole episode as it turns out Kaidbay was repeatedly used as a front man for the Obeids, is that right?---(No Audible Reply)

You're nodding your head?---Yes, sir.

And by front man, I mean that's a sort of a colourful phrase, what I'm trying to say is he would be, at least to the world at large, put up as though he was the owner of certain companies or the owner of certain properties?
---Certainly representing them.

And did he ever tell you why he agreed to do that?---Not specifically, he was a friend of the family.

And did he ever tell you why the Obeid interest in companies or properties had to be concealed?---He didn't say that, Moses told me that because they were so public, they didn't want to be in the public eye.

10 THE COMMISSIONER: But Mr Brook, I can understand that, if the public would be interested in their dealings but if the Obeids were to buy a suburban house, for example, would they, would there be any reason in concealing that?---I wouldn't know, sir. I don't know - - -

So did it never occur to you to ask what would be their reason in concealing the ownership of a farm which the family were going to enjoy and Mr Edward Obeid was going to enjoy his retirement?---I have seen many transactions where people try to hide their interests.

20 Yes, I'm sure you have. I'm just trying to find out what it was about the purchase of the farm that caused the Obeids to try and conceal that purchase and whether you know that, you knew whether they ever revealed to you why the, they were interested in concealing their identity in regard to the purchase of the farm?---I deduced it was because they believed there was coal on the farm.

Right.

30 MR WATSON: Well, the invitations to express interest are issued, we know that, 9 September, 2008. But on the date that happened the people of Monaro had known for a long time it was going to happen?---Well, Moses had told me and I had indicated to them.

Well, we've also seen the document that they signed before it even occurred?---Yeah.

And then Monaro made its bids, they got some expert assistance in doing that, is that so?---Yes.

And I don't think you've got the expertise on that side at all?---Not at all.

40 No. Then you remember the government announced a reopening?---Yes.

Now, could you close up that volume that you've got there with you at the moment. Could the witness be shown Exhibit J-18. This is Exhibit J-18 or otherwise we call it part 3, volume 3 and I'm going to ask you to open it up at page 712. Now, you were told something about why the government proposed reopening or what their intention was. Is that right?---(No Audible Reply)

Just before you look at that page if you'd just listen to me, Mr Brook, it's not your handwriting, it's Mr Rampe's I believe. But you were told something, you were given some information about why the government intended to reopen or came to that view, is that right?---Yes.

10 And we can see part of it was recorded here. Page 712 is part of a diary kept by Mr Rampe and it's Mr Rampe's diary and you'll see it's undated but there's something the top right-hand corner, January 2009 and I don't know when he wrote that but we can actually put a date on it because it's got a
20 reference to you and the particular room you were staying in in a hotel and we've got other documents which if you needed to be shown it I could show you, it puts a date on it, if you look at page 716, you're staying at Northpoint Apartments at Port Macquarie, room 464 - sorry, no?---No.

So sorry, it's been sent by Mr Rampe from Port Macquarie to you in room 464 and you were in Calcutta?---That's right.

20 Now if we go back to page 712 we now know that the date is approximately right, it must've been January 2009. And there's a bit of a discussion there, there's some reference to people for example you'll see the name Lachlan Broadfoot as one of the people to whom you were speaking, is that right?
---Ah hmm.

Do you see all of that?---Yes, I do.

30 Well what I want you to look at it and I want you to assume this is Mr Rampe taking down notes of what you told him, you'll see that you were discussing the benefits or otherwise of – this is halfway down the page – of certain potential support. They see the strategic nature, five years experience with the Department of Primary Industries, wants to control asset, blah, blah. The last entry is the one I want you to focus on. Department of Primary Industries wanted to extend big time to allow, “White group.” Do you see that?---Yes, I do.

40 Now this is apparently something Mr Rampe wrote down while he was speaking to you in Calcutta. Now did – you did know the reason why the Department or the inside reasoning by the Department to reopen was so that companies within the so called white group could be included in the bid. You knew that, did you?---I must have if it's written down.

Well looking at it now does it refresh your memory?---Yeah.

The white group, would they be companies associated with Duncan Travis and the White Energy company?

THE COMMISSIONER: Travis Duncan.

MR WATSON: (not transcribable)?---I didn't know that at the time.

Didn't know that at the time, you just – where had you been told about this business the white group?---It could only have been Moses.

Right. So I mean just looking at this now, this is what Mr Rampe's writing down. No doubt you've said the Department of Primary Industries wanted to extend the bid time for this purpose, to allow bids to be made by the white group, and you didn't even know who they were?---No.

10 So that's information, you say, you could only have got from one source?---That is what I would expect, yes.

While we've got that volume open would you turn to page 734? It's along the same lines and indeed because we don't know the date of Mr Rampe's note it could well be that it was this email that triggered his call to you in Calcutta. You'll see that it's an email 12 January 2009 from you, Mr Brook, to Mr Rampe and also to Mr Grigor and you said that, "I have some colour surrounding the DPI letter." Now just pausing there - - -?---Ah hmm.

20 - - - this is about the time that the letter was sent by the Department of Primary Industries reopening the EOI process?---Yeah.

If we make the robust assumption that that's the DPI letter - - -?---Yeah.

- - - that you're referring to, and that you could – they could contact you and you've even referred to Skype which is some telephone contact, do you see that?---Yes.

30 It in fact seems pretty likely that page 712 which is undated may be a conversation which was had following that email, do you agree?---Yes.

And the colour that you were able to give surrounding the DPI's letter extending time was that it was done to allow the white group to participate? ---I must've received that information from Moses.

All right, thank you. Now - - -

THE COMMISSIONER: And you said that you told Mr Rampe that?---Well I must have if it's in the diary note, sir.

40 MR WATSON: Sorry, I think you've crossed purposes. There's two things – you, you told Mr Rampe about white group but did you tell Mr Rampe – and it may be that Mr Grigor participated incidentally – but did you tell them also that the information you'd got, you'd got from Moses Obeid?---I don't believe I did that.

MR WATSON: Well the directors of Monaro Mining got cold feet, that's the way I've put it. (break in sound) that Moses Obeid will come here and

say that at about this time you came to him and said, I know this other bidder, Cascade Coal, who could take over from Monaro. Now, just assuming he says that, would that be true?---No.

Any chance of that being true?---No chance.

Did you know Cascade Coal?---Not at all.

10 Well, I understand he's going to say that you brought them along and introduced him to some people from Cascade Coal and that you were organising, you were the driver of all of this. Would that be true?---Not at all.

I mean before – sorry, may I ask you this, were you introduced to the people at Cascade Coal by Moses Obeid?---Yes.

And we've got some notes and some other records which suggest that you were introduced by Moses Obeid to a man named John McGuigan?
---Correct.

20

And a man named Richard Poole?---Yes.

A man named Greg Jones?---I never met Mr Jones, I don't recall that.

And a younger man, Mr McGuigan's son, James?---Yes.

Now, before Monaro Mining getting cold feet, did you know John McGuigan?---No.

30 Or James McGuigan, his son?---No.

Or Richard Poole?---I knew Richard.

You did know Richard?---Yeah.

You'd had some dealings with him?---Yeah.

Did you know that he was associated with Cascade Coal?---No.

40 Did you know that Richard Poole had any interest in coalmining whatsoever?---No.

Now, did you, and I'll just ask you in case you did meet him, had you ever met Greg Jones on an earlier occasion?---No.

There are some other people associated with this company, John Atkinson, did you know him?---No.

Travers Duncan?---No. I didn't even know who they were.

Brian Flannery?---No, never met him.

Well, so you would deny that it was you who initiated the discussions with Cascade Coal?---I deny that.

Now, how did you find out about Cascade Coal, who told you about them?
---Moses.

10

When he told you about Cascade Coal, what did he tell you?---He told me that he, he, I had asked him when the bids were reopened and Cascade were on the list, who, did, did he know them. He said no. When Warwick Grigor was terminated from the board, shortly thereafter Moses told me that he'd met the people at Cascade.

The people at Cascade?---Yes.

And did he say where he had met them?---Not specifically.

20

THE COMMISSIONER: And did he identify who they were?
---Brian Flannery was the main person he said he was talking to.

MR WATSON: Well, I can tell you that we can put a specific date on the termination of Warwick Grigor as chairman of Monaro. We know we can do that. You know that related to dissatisfaction by the board of directors in respect of the participation in the New South Wales EOI coalmining process?---Yes.

30

We can put a date on that but I can't tell it to you know, I'll just look at my notes. I think it's April 2009. Does that sound right?---Possible.

Yes. I believe it's a meeting of the board of directors on 29 April, 2009. Is it after that meeting that Moses told you that he knew the people at Cascade?---To the best of my recollection, yes.

Now, the termination of Grigor was accompanied by an indication that Monaro wanted out all together from the EOI processes?---That's right.

40

Now, when Moses came to you with the information about Cascade, did he tell you about whether he had promoted the deal to Cascade or somebody at Cascade?---Yes.

What did he say?---He said he'd, they'd met and negotiated principal terms on the properties and on a JV.

JV meaning joint venture?---Yes, with Brian Flannery.

Right. But we've got some other information of a pre-existing relationship between Moses Obeid, John McGuigan and Greg Jones and that he was meeting with them specifically at around about this time in relation to a business known as Geo Radar. Have you ever heard of Geo-Radar?---I don't believe so.

Anyway, you say that whenever it was soon after Grigor's termination that Moses came to you and said that he'd organised both sides?---Yes.

10 Did he tell you what the broad terms were of the proposed JV?---Not on the property deal, no, but on the JV 75/25.

75/25 meaning what?---The Obeid vehicle 25 and the Cascade vehicle 75.

Now he's saying to you that he had hammered out this in broad terms with these people, had he?---Yes, yes.

20 Well can I say something, you were going to be financially affected by this yourself?---Yes.

Did he get your permission before doing that?---No.

But were you happy with it that he'd been able to do it?---Well I was relieved because Monaro were pulling out. I was trying to make a living.

THE COMMISSIONER: Were you angry when Monaro pulled out?---I was disappointed, Commissioner.

30 MR WATSON: When Moses came to you, he said this about the joint venture but tell me, again I just do not understand what was in it for Cascade?---The joint venture?

Yes?---Well the way Moses proposed it was he knew that Monaro were going to pull out, well, withdraw so the idea was to try and convince Monaro to assign the bids to another vehicle or whatever.

Another Obeid vehicle?---Well owned by.

40 Yes?---And that way they would have leverage to negotiate with Cascade and consummate a deal.

THE COMMISSIONER: So to have leverage with Cascade - - -?---Well - - -

- - - Cascade would have to be ignorant of the fact that Monaro were going to withdraw?---I wasn't part of the discussion, sir.

But that's obvious, isn't it?---I would say so.

And did Moses tell you that – tell you how he was able to induce Cascade to enter into the proposed deal?---Commissioner, the deal – he didn't tell me about any background of the negotiations - - -

I see---? - - - at all. The deal was done.

It was presented to you at a fatter company?---95 per cent, yes.

10 MR WATSON: Now we've got some pretty hard evidence from Cascade people themselves that during negotiations it was presented to them that the Department of Primary Industries was extremely likely, almost certain, to award the Mount Penny Exploration Licence to Monaro – that they were told this – and they've suggested that they were told this repeatedly as well as the fact that Cascade was in second place. Do you know anything, can you cast any light on that?---I think Monaro, I think Monaro had already been awarded the invitation.

20 You, you – is that right, you thought that they had already been awarded?
---I'm just, I'm trying to - - -

THE COMMISSIONER: You think they had it in their pockets?---I think they already had it in writing.

MR WATSON: Well what I'm going to do is I'm going to suggest to the Commissioner that we take a luncheon adjournment now and you can think about it and - - -?---I just - - -

30 - - - I know I've been stretching your mind this morning and I'm grateful for your cooperation so far.

THE COMMISSIONER: Yes, the Commission will adjourn until 1.30.

LUNCHEON ADJOURNMENT

[12.30pm]

THE COMMISSIONER: Mr Watson.

MR WATSON: Just before lunch, Mr Brook, I was asking you about whether it was your recollection that at about the time you were dealing with Cascade or they were introduced whether you were aware of the fact that Monaro was favoured by the Department of Primary Industries to win and you said that you thought you may have received notice by them that they had won. Now I asked you to reflect upon that?---My memory is not great, I'm sorry.

All right. Well, you see, what I want to suggest to you is this, is that by that time, by the introduction of Cascade, that is by May and before 5 June information had been provided to you to the effect that if Monaro proceeded with its bid it was going to win and that the company which was placed second was Cascade Coal. Does any of that ring a bell with you?---I, to the best of my recollection I thought that Monaro had received the invitation and, and I've looked through the evidence on the website and I did notice that there was a letter written to Cascade informing Mr McGuigan that they had lost and Monaro had won.

Well, that's absolutely true and you see the point I'm trying to make here is this, is that at this time the Department of Primary Industries had appointed a committee, the committee had reported and had found that Monaro should win and that correspondence had been drafted to that effect. Those things that you saw were never sent to the public, they were never released to the public and should not have been seen by anybody except perhaps high up in the Department or in the Minister's office. Will you accept that for the moment?---I'll accept it but - okay.

But you think that at about that time you'd already got information to the effect that Monaro had been successful?---I - my recollection is that Monaro had been sent a letter.

All right. Well, Monaro certainly was sent a letter in relation to Yarrawa, a tenement to which I'll return but I'm here focussing upon Mount Penny? ---Yeah.

And I perhaps should have made it clear, in the discussions with Cascade it really involved two tenements, Mount Penny and Glendon Brook. What I want to suggest to you is that by that time you'd been given information which meant that yourself and Moses Obeid in those negotiations were completely confident that if Monaro proceeded with its bid it would succeed and then if it withdrew Cascade would succeed?---My recollection is that Monaro had received a letter from the DPI.

All right. Well they didn't in respect I can assure you they did not in respect of Mount Penny or Glendon Brook?---Well, I apologise, I, I - that's my recollection.

THE COMMISSIONER: Did you see a letter?---Commissioner, I'm, I'm, I'm trying to recall.

10 MR WATSON: Well, actually the Commissioner's point is an excellent one. I've been trying to beat you down all the time but do you think that there was a letter that was circulated which showed that Monaro had won?--
-I thought there was.

Right. Would you know where you would have got that from, that letter had you seen such a thing?---I would have thought from Monaro.

All right. In these meetings with Cascade, you went to a few meetings with people from Cascade, is that so?---Approximately - - -

20 MR BARRY: I object to this. Could we have the identity of the individuals are talking about?

MR WATSON: Of course we will.

MR BARRY: Not Cascade.

MR WATSON: Of course we will. Now, you went to a few meeting with Cascade, did you?

30 MR BARRY: I object to that for the same reason.

MR WATSON: Well, sorry, you've got to ask a basic question to get to the second one but if you, if you just wait for a minute you'll learn.

THE COMMISSIONER: It will come, Mr Barry.

MR WATSON: You went to a few meetings with Cascade, did you?---Yes, sir.

40 All right. Now, these meetings, where were they held?---In, I think in White Energy's offices in York Street.

Now, was there, there was more than one meeting. Were they all held at White Energy's offices?---To the best of my recollection, two there and the final meeting at Arthur Phillip.

And Arthur Phillip's offices are where?---In Martin Place.

All right. Now, let's start with the first meeting you went to. How did you know that there was going to be a meeting, who told you?---Moses.

And did you go to the meeting alone or did somebody go with you on your side?---Moses came with me.

All right. Any other Obeid?---Paul may have been there- -

All right?--- - -and Gerard may have been there.

10

But certainly yourself and Moses?---Definitely.

Now, on the Cascade side, who was there?---John McGuigan.

John McGuigan. It was in John McGuigan's office, wasn't it?

THE COMMISSIONER: Just a minute, Mr Watson.

THE WITNESS: Well, I don't know if it was his office.

20

THE COMMISSIONER: Just a minute.

MR JAMES: Individuals can have different roles and different identities with different companies. The assumption is being- -

UNIDENTIFIED VOICE: Commissioner, I can't hear.

MR JAMES: The assumption is being put in the question that the meeting is Cascade. Now, I understand it's taking place at the White Energy offices with some named individuals that my friend is seeking now to identify, but what I want to try and find out is why is it said to be Cascade?

30

MR WATSON: Thank you, I'll ask that question. When Moses told you of this meeting, the first one which was to be held at White Energy's offices, did he tell you what the purpose was?---Yes.

What did he say?---He said they had agreed on the general terms.

Now, who's they?---Moses and Brian Flannery.

40

Right?---John, John McGuigan, sorry.

John McGuigan?---Yes, had drafted a document, right, and Moses wanted me to make sure that their rights in the document were going to be upheld.

Being protected?---Yes.

You were going along?---Just, just to review it, yeah.

So your recollection is that you were going along to McGuigan's office to look at a document which had been drafted by Mr McGuigan?---Well, I, yes.

Now, when you went to this first meeting- - -

THE COMMISSIONER: By Mr McGuigan? I thought you said Flannery. Am I- - -

10

MR WATSON: No, the agreement was hammered out with Flannery, Commissioner, and then the document had been drafted by McGuigan. Am I right, Mr Brook?---Yes, that is right.

Now, so when you went along to the White Energy offices, this was in John McGuigan's office that this occurred?---I, I don't know if it's his office or not but- - -

20

Right. Okay. So it was somebody's office?---It was a boardroom.

It was a boardroom, was it?---Yeah, it was, it's like glass sort of retro fitted building.

All right. Now, in respect of this, who was present there on the other side, you and Moses and maybe Paul and Gerard on your side?---Yeah.

But there was another side. Who was there representing them?---John McGuigan- - -

30

Yes?--- - - -and his son, James.

Right. Just the two of them?---Yeah, in the first meeting, yeah.

Now, at that meeting what was said?---Well, the broad terms of the 75/25 had been agreed on the basis that if Monaro was to surrender its bids to an Obeid interest and approved by the DPI to do so, the agreement was they would withdraw and Cascade, the presumption was Cascade was number 2.

40

Right. Now, there was also mention was there not about the property aspects, the sale of the farms?---I had nothing, I was not involved in that aspect at all.

Right. Now, in terms of the negotiation of the - I'll stop. I'm going to call one aspect the mining part and the other part the property part. Okay? ---Yeah, yeah.

So you were involved in negotiations on the mining part?---Yes.

But you weren't involved in negotiations on the property part?---I wasn't involved in the negotiations.

All right. In the property part, who was speaking on behalf of your side?---Well I was, I wasn't in that meeting.

Sorry. But was it – okay, the mining part. During the mining part who was speaking on your side? Were you speaking alone, or - - -?---No, Moses was speaking.

10

Now was there any, for example, any subterfuge at play? For example was Moses saying the Obeid family are not involved in this part of the transaction? Was he saying anything like that?---No.

Was it an open discussion that the Obeids were involved in the mining part?---Well they were in the room.

20

Well they were in the room but they may have been silent, you see? I want to know whether there were words said?---No, it was very, very clear to me that both sides knew each other. It was obvious.

Now at around about this time concurrently an arrangement was made under which your side, the Obeids and you, took control over Monaro's bid. Is that right?---That's right.

Now could the witness be shown Exhibit J-18? Now J-18, I want to take you through to page 892. This is also a note - - -?---Sorry, sir, I'm still getting it.

30

So sorry?---Ah hmm.

Now page 892 is a note which comes – it was given to us by Mr Rampe. It's a note he took of a meeting which involved you, him, a man named Jim Malone, do you remember him?---Yes.

He may have participated by telephone I believe but he may have been there face to face, do you recall?---I don't recall.

40

And a fellow named Greg Barnes?---Yes.

And you remember him?---Yes.

Malone and Barnes were directors of course of Monaro Mining?---Correct.

Now you'll see that the meeting is dated 22 May 2009 and it records what you're saying in effect that, Gardner Brook, Voope is keen to preserve their (not transcribable) position, they have deep pockets, Voope will want to

take their chances, look at Monaro Coal being the main. I mean I can see it's an incomplete note but you get the gist of it?---Yes.

And so is that right? It was about this time that you proposed to the people at Monaro Mining that Voope would take over the bids?---Correct.

Or at least some of them?---Correct.

10 THE COMMISSIONER: That is Monaro's bids?---Yes, sir.

MR WATSON: And Monaro MRO, that's the stock exchange abbreviation at the time applicable to Monaro?---That's the public company, that's right.

Yes, for the public company. And then you don't participate, I think, in this next part but you'll see section 2 of that same page are some internal negotiations amongst the people at Monaro Mining?---Ah hmm.

20 And what it is, is that they were looking at trying to get some of their costs of participating in this exercise back?---I remember this vividly.

Sorry?---I, yes.

You remember it?---Yeah.

THE COMMISSIONER: You remember it vividly?---Vividly, yeah.

MR WATSON: Well they wanted out?---Absolutely.

30 And - - ?---And they wanted their name out as well.

They wanted out altogether and the way that was negotiated between two of them was that Voope Pty Ltd would buy the shares in the subsidiary Monaro Coal Pty Ltd?---Yes.

And Monaro Coal Pty Ltd had been the vehicle through which Monaro Mining had made the bids?---And then Monaro Coal changed its name to Royal Coal.

40 THE COMMISSIONER: Was that part of the deal that they would do that? ---Monaro wanted, wanted that, sir, yes.

And they agreed?---The reason they gave was – I apologise for my speech.

MR WATSON: Sorry, maybe I should make it plain, you did have an accident years ago - - ?---I've got a frontal lobe contusion damage, yes.

Yes. And it interferes with your speech?---It does very much.

But can understand me pretty well?---Absolutely.

And I can understand you?---I do apologise to everyone.

THE COMMISSIONER: It's quite in order, Mr Brook?---I beg your pardon, Commissioner. Monaro told me that to protect their image with the DPI part of the deal was to change the name Monaro Coal to another name.

MR WATSON: Another name?---It didn't matter what and, yeah.

10

And as it turns out the name which you settled upon and you thought you would follow up was Royal Coal?---No, Moses Obeid suggested Royal Coal but Royal Coal was already - - -

Was taken?---Yeah.

So it was Moses' idea to take the title Royal Coal?---Yeah, and then he said oh, well, Loyal.

20

And then so the, when Royal was taken you went for the name Loyal Coal? ---I remember sitting in a, I was having coffee with, coffee with him and we found out Royal was gone. Mo said "Loyal."

And so Loyal Coal it became?---Yes.

Now with that subsidiary vehicle then Voope came in and bought the shares?---Yes.

30

And so the bid was in effect in the name of Loyal Coal?---Well, subject to - - -

THE COMMISSIONER: Well, Loyal Coal - - -

THE WITNESS: - - - the DPI agreement.

THE COMMISSIONER: Loyal Coal really held whatever rights Monaro Coal had had in the bid, that's the real position?---Yes, Commissioner, yes, and concurrently the DPI, you know, had to agree to this.

40

To that?---Yes.

MR WATSON: Now, there were still terms and conditions to hammer out with Cascade and you mentioned before that there were to your recollection three meetings. A second meeting at White Energy's offices and a third meeting at Arthur Phillip?---Mmm.

Is that right?---Ah hmm.

Could the witness be shown what's now Exhibit - - -

THE COMMISSIONER: You nod your head, that means yes?---Yes, sir.

MR WATSON: Shown what is now Exhibit 30, it's otherwise part 4, volume 1.

THE COMMISSIONER: When you say 30 you mean it's - - -

10 MR WATSON: Exhibit J-30.

THE COMMISSIONER: J-30, yes.

MR WATSON: Which is part 4, volume 1.

THE COMMISSIONER: Yes.

MR WATSON: And what I was going to do was ask you to go to page 149
20 and you'll see at 149 there's an email from you, Mr Brook, to James
McGuigan and also to Moses Obeid, do you see that?---Ah hmm.

Is that answer yes?---Yes, yes, sir.

And you'll see that here's an email address, this is James McGuigan, to send
the first draft and then there's the share transfers et cetera, et cetera, this is
talking about the negotiations, is that so?---Sorry, am I looking at - - -

149?---Yeah.

30 It's an email by you - - -?---Yes.

- - - to Mr McGuigan, 1 June, 2009, is that so?---Yes.

And look, it's not as though the involvement of the Obeids is a secret,
Mr Moses - - -?---That's right.

- - - Obeid is one of the recipients?---Yeah.

40 And so you were going, you were asking James to send you a first draft of
something?---Ah - - -

If you see there in the first line?---It would have been the first draft of the
JV I guess.

Could it be that your earlier evidence was wrong and that Mr McGuigan
Senior had not prepared the draft before your first meeting but it was to be
prepared after your first meeting?---That could be correct.

Because I'm going to show you a few documents here now?---Okay.

You'll see at page 150 of the same exhibit that James McGuigan is sending something to Greg Jones, John McGuigan and Richard Poole and what these are are, I'm going to suggest, the first drafts of the agreements. You'll see on page 151 the first page and I'm going to come to that in a moment?
---Yes, yes.

10 But if you just look at this email for a moment it may help you with your recollection. You'll see that James McGuigan is sending this on and you'll see in the second paragraph, "I have had a discussion with Mo." Now, can I just pause there and say everybody calls Moses Obeid Mo, don't they?---
Yes, sir.

And he said, "I have had a discussion with Mo but I am yet to receive what nominee company they want to do it with as well as any of the land agreements as promised from Paul." Now, Paul, would you take that to be a reference to Paul Obeid?---Definitely.

20 Now, when there's a reference there to a nominee company, that's a reference is it to the fact that yet another company was going to be created to do this deal with Cascade Coal. Is that so?---Yes, that's right.

And you, did you have a discussion with any of the Obeids about that?
---Yeah. Moses said that they had to create a new company, Mo came up with the name Buffalo.

Buffalo?---So Newco to engage directly with Cascade Coal.

30 We've heard the expression a few times, a cleanskin company?---Yes, sir.

And so Newco, cleanskin, whatever you want to call it?---Buffalo.

That's the nominee referred to there?---Yep.

Now, if you look further down the letter you'll see that about two-thirds of the way down there's a reference to a meeting at Arthur Phillip's offices which were at level 33, 52 Martin Place. Do you see that? That's the- - -?
---Whereabouts, sir, just down the- - -

40 About two-thirds of the way down?---Yes.

Now, I'm not suggesting you went to that meeting, that seemed to be a private Cascade meeting, but then I'm just showing you that it does show that Arthur Phillip's offices are as you said in Martin Place. Then just down the last three or four lines, "In other news" - do you see that?---Ah hmm.

Toward the bottom?---Yes, sir.

And then there's the reference to a 100 per cent entity owned by Gardner and known as Royal Coal?---That wasn't correct.

As it turns out, that was changed?---Yes.

Now, what I want to do is just show you at page 151 is a draft of an agreement, and you'll see it's on Cascade Coal letterhead. It's nominated as a draft and it's an agreement between Cascade and the property owners.

10 You'll see that in the title?---Yes, sir.

And then at page 153 is the draft between Cascade Coal and the nominee company, that's the company that actually ended up becoming Buffalo Resources Pty Limited?---That's correct, sir, yes.

But this is I think the first draft that we've been able to track down. So could I ask you, is there any doubt whatsoever in your mind that during the negotiations with the people who apparently reflected Cascade Coal, was there any doubt that the Obeids were involved on the other side?---No doubt at all.

20

And if I show you just further into this same document, would you go to page 172?---Yes, sir.

You'll in fact see here that this is James McGuigan dealing directly with Moses Obeid sending him both copies of the agreement and down in the bottom third it's an email from Moses Obeid apparently directly to James McGuigan at Cascade and he's actually naming the entity, Buffalo Resources Pty Limited. That's the nominee you were speaking of.

30

THE COMMISSIONER: For the joint venture.

MR WATSON: For the joint venture?---Yes, sir.

And then over at 203, page 203, this is an email you'll see sent by James McGuigan to Moses Obeid and yourself and it's dated 3 June, 2009 and the intention is to sign the letters of agreement on the Friday at Kent Street. Now, does Kent Street - -?---Yeah, that, that reminds me where it was, sir, yes.

40

And then they've got some questions there I see in bullet points. For example, the fourth one is, John McGuigan and Travers Duncan want to understand why mining lease was changed to mine approval. Do you see that?---Ah hmm.

Did you ever meet John, sorry, Travers Duncan?---No.

Then at page 204, I won't dwell on this for a long time, you'll see that there's yet a further draft of this, one of the agreements?---Yes.

The one with Buffalo?---Yes.

Then at 208, I'm so sorry that's just repetitive of other ones. Now in the end that agreement - - -?---Which, which, what would you like me to look at, sorry?

10 Sorry, I was wasting your time and everybody else's time I'm afraid. I just want to show you the agreement. The agreements were eventually signed? ---Yes.

And you can see one of them for the land owners is at page 260?---Okay, I'll go, I'll just go there.

20 THE COMMISSIONER: Sorry, Mr Watson, before you go on can you just tell me what the page number was of the email that you were asking Mr Brook about, I think the McGuigan's are involved, the one, the last one that you were asking about?

MR WATSON: Well the second was at page 203, and it's - - -

THE COMMISSIONER: Let's look at this, is that the one? And that, no, the one after that.

MR WATSON: Well there was one at 172, Commissioner.

30 THE COMMISSIONER: Well there was, the one that I was looking for is where it said that Monaro were going to, would now withdraw.

MR WATSON: Sorry that was earlier on, I'll get that for you.

THE COMMISSIONER: Thank you.

MR WATSON: It could be 149 I think and there's a little at 149 and a little of it at 150.

40 THE COMMISSIONER: It is a longer one I'm sorry.

MR WATSON: It could be 150?

THE COMMISSIONER: No. There's a, there's - one of the - it's an email that sets out what was going, what was going to happen. One of the things that was going to happen was that Monaro was going to withdraw.

MR WATSON: Sorry, yes, I'm coming to that. You - Commissioner, you would've seen the drafts of the agreement but I'm going to come to them.

THE COMMISSIONER: All right.

MR WATSON: They went through a series of drafts, of course?---Yes.

THE COMMISSIONER: Yes. It's, it's – well there's a reference for 203 for example to the withdrawal letters.

10 MR WATSON: Yes, and I haven't bothered troubling this witness although they'll be in here.

THE COMMISSIONER: Although that – in that – that sets out the basis of the scheme as at that date, that Monaro – it's not – it's no longer an acquisition of Monaro's rights. Monaro are going to withdraw.

MR WATSON: Yes, there's no doubt about that, Commissioner. I'll just show the witness now – I'll just leap ahead. I'll show you. Page 260 first of all is a signed copy of the land owners agreement between Cascade and the land owners, do you see that?---Yes, sir.

20

260?---Yes.

Now that was something in relation to which you say that the Obeids had the primary negotiation burden?---I had nothing to do with this document.

All right. But the thing is, I wanted to show you this. At 266 - - ?---Yes.

- - - there is a bare trustee?---Yes.

30 And if you look at 267 the parties are said to be – and there's only one – Buffalo Resources Pty Ltd which is nominated to be the trustee which holds the shares on trust for Warbie Pty Ltd, is that so?---Yes, sir.

That's your company?---It was.

And Equitex Pty Ltd and that's an Obeid company?---Yes.

Now what they were doing was holding on trust – and sorry if you go to page 269 you can see that the people who signed on behalf of Buffalo
40 Resources are Andrew Kaidbay and Mario Sindone?---Yes.

Who's Mario Sindone?---I don't recall, recall, recall ever meeting him.

All right?---But in the company records he became a director.

We've got evidence that Mr Sindone was a lawyer who was working for the Obeids at that very time in their offices at Birkenhead Point on the Streetscape Litigation?---I - - -

You don't know anything about that?---I don't know anything about that, no.

All right. Well then, and Commissioner this is the one that you wanted to see, at page 270 you'll see this is the agreement which is between Cascade and Buffalo and it's addressed to you Mr Brook, do you see that?---Yes, I do.

- 10 Now what the Commissioner was talking about, I think figures in this draft – and this is one that's signed, I'll come to that – but the first line on page 271, it said in recognition of Buffalo's intellectual property contribution – and I'm going to come back to that in a moment?---Mmm.

And in consideration of Buffalo - and it's the first bullet point - and it's associates including Gardner Brook and Royal Coal withdrawing any existing applications in relation to Mount Penny in Glendon Brook. Now that's what the Commissioner was asking about before, is that so?---Yes.

- 20 That was the key to it. Monaro had agreed with you that you'd take over its bid, you agreed with the Obeids - - -?---And subject to DPI approval.

Of course?---Yes.

Commissioner, is that - - -

- 30 THE COMMISSIONER: Yes, that's right. So no longer was it a case of Cascade acquiring the rights of Monaro by an assignment. What had happened was there was agreement between Cascade and the Obeids, and by Obeids I'm talking about the individuals not the companies to which they operated, that Monaro would withdraw its bid and in consideration for that Cascade would do various things. That's correct is it?---That, that's correct, sir.

Yes. So in other words at the stage this agreement is concluded the Obeids have not and not have you told the Cascade people that Monaro were going to pull out anyway?---I think there may have been a bit of bluff.

- 40 Yes, I understand that?---Mmm.

MR WATSON: That was your negotiating chip?---Yes, sir.

And I've got some emails to that effect which I can take you back to but you were bluffing Cascade?---Well, negotiating to get the outcome.

THE COMMISSIONER: And underlying all these negotiations is the notion that Cascade is second in line and if Monaro withdraws Cascade would become the holder of the licence?---That's the notion, sir, yes.

And where did that information come from, Mr Brook?---Well, I've thought about that too, Commissioner. I had informed Moses of Monaro's bid number which was crazy.

MR WATSON: Very high?---Yeah.

\$20 million?---20, 25.

10 Yes?---That figure came from Monaro, Mr Rampe, so I deduced that being such a high figure Cascade being the real experts at the table in coal in that area would have had a really good idea that, you know, the 20 million was stupid anyway.

Well, we've heard from their barrister say that the weightings of the EOI process meant that that very high offer made their success inevitable, Cascade's barrister said that?---Right.

20 THE COMMISSIONER: It made Monaro's success inevitable.

MR WATSON: Sorry, it made Monaro's bid - - -?---Right.

- - - a fait accompli. But the - - -

THE COMMISSIONER: Sorry, you still haven't answered the question? ---I'm sorry.

30 He said where did the information come from that Cascade was second and would get the bid, get the licence if Monaro withdrew?---That assumption was provided to me by Moses Obeid.

Well, why do you say it's an assumption?---Because he initiated this deal with Cascade.

Well, an assumption - - -?---With Brian Flannery.

Well, an assumption means something that is assumed but is he confident that - - -?---He must have been, Commissioner.

40 But was a - do you know whether a representation was made to any person involved on the Cascade side that they would come second if Monaro, if Monaro withdrew? That they were second and if Monaro withdrew they'd get the licence?---Commissioner, I don't think this agreement, conditional agreement, would have been drafted if that, that wasn't true.

Yes. Well, the whole agreement is predicated on that assumption?---Yes, sir.

Yes?---But I wasn't - - -

Induced by Mr Obeid I take it?---Yes.

MR WATSON: When I look at this document at page 270, the agreement entered into by Cascade Coal, I see that on the first page at page 270 there's an intention to enter into what's in the middle paragraph described as an unincorporated joint venture. Do you see that?---Yes, sir.

10 And then over the page at 271 it says that this is entered on behalf of Cascade because of, in recognition of Buffalo's this, intellectual property contribution. Do you see that?---Yes, I do.

Now, just pausing there, we've got a record that the, or at least representing this to the world, the directors of Buffalo were yourself – did you have any intellectual property which you could use for the contribution for the development of a mine?---No.

20 One of the other directors was Andrew Kaidbay, did, did he? You know him, none?---None.

And you don't know the third fellow, Sindone?---No.

And tell me this, did any of the Obeids?---No.

Well, what was the intellectual property contribution which was being made by Buffalo Resources?---There was none and John McGuigan drafted- - -

30 That phrase?---Yes.

Was that phrase designed as a kind of formulation of words to disguise that it was inside information?---I didn't interpret it that way. I thought for there to be a commercial agreement there had to be, you know, some sort of activity.

All right. Well, we'll go on. In the first bullet point one activity is the withdrawing- - -?---Yeah.

40 - - -of the current bid?---Ah hmm.

The second bullet point suggests that Buffalo was agreeing to assist Cascade to explore and develop the Exploration Licence and to obtain mining approvals, again an area on which none of the people behind Buffalo had any skills whatsoever?---That's right.

And the third bullet point is by making available expert knowledge of the area when again nobody had any idea about that?---As I said, sir, Mr McGuigan drafted that.

Do you know why he used those words?---I- - -

They're patently wrong, aren't they?---They are.

And if we go on, could I ask you something? I asked you this about another document. Did you ever look at this and ask yourself, my God, what is Cascade getting out of it?---Well, the rights to Mount Penny- - -

10 Well, have a look- - -?--- - - -if they come second.

Again they're just giving away 25 per cent for nothing, aren't they? If you see that it says that Cascade agrees to grant Buffalo a 25 per cent interest in the joint venture?---Yeah.

And then it goes further, Cascade agreed that Buffalo didn't have to make any contribution to the cost of the joint venture until the earlier of either a mining approval, so all of the exploration costs were to be at Cascade's expense?---Ah hmm.

20

Is that right? Or a minimum exploration expenditure of \$10 million?
---That's right.

That in the industry is called a free carry?---That's right.

Now, a free carry is normally only provided where somebody is providing something of genuine real value to the other investor. Correct?---Correct.

30 Well, here, if we go back to the top of the page, Buffalo was giving nothing in return except with for withdrawing its application?---That's right.

So Mr Obeid asked you to go there to protect the Obeid interests?
---Well, just to look over the documentation.

I was just going to say, you did a pretty good job by the looks of things. Now, just to make it clear in case it's not, subject to your interest through Warbie, the whole of that Buffalo Resources was only interests of the Obeid family?---My interest, Warbie, was my fee.

40 THE COMMISSIONER: And how much was that, Mr Brook?---It was 12 per cent, Commissioner, of the Obeids' interest.

It was not 12 per cent of the, of the venture?---No, it was- - -

It was 12 per cent of the Obeid interest in the venture?---So three per cent.

Yeah, three per cent?---Yes, sir.

MR WATSON: Now, would you

THE COMMISSIONER: Thank you. And 97 per cent was the Obeids?
---No, sir.

Sorry, they had - 97 per cent of Buffalo's interest was the Obeids?
---Correct.

10 If you go to page 300 of that same exhibit you'll see that in relation to the
subject of Expressions of Interest - - -?---Sorry, sir - - -

Sorry, page 300?---Yes. Ah, 300, yeah, got it.

Page 30, Expressions of Interest, you emailed James McGuigan and others
and, sending him a copy of the letter which is at 301 under which Loyal
Coal withdraws its bid?---That's right.

20 Now, Monaro Mining did maintain an interest in another tenement called
Yarrawa?---That's right.

Can I separate that now?---Sure.

I'll come back to Yarrawa later, okay?---Sure, sir.

I want to focus on Cascade Coal and as it turns out Cascade Coal won the
process for the Expressions of Interest. Is that right?---That's right.

30 Now, there came a time when your interest and the Obeids' interest in the
Mount Penny tenement had to be removed?---That's right.

The Obeids' involvement had to be extracted as it were?---That wasn't
disclosed to me as a intention when I was in the meetings but subsequently
it was apparent because they wanted the JV incorporated. Sorry.

THE COMMISSIONER: Take your time.

MR WATSON: They wanted the joint venture to be incorporated?
---Unincorporated.

40 Unincorporated?---So they could get my, my name out and Obeids' name
out.

Now - - -

THE COMMISSIONER: Mr Brook, sorry, Mr Watson?---Sorry.

If you're having difficult in speaking just take your time?---I will, sir, I'm
sorry.

You have as much time as you want, no one will press you?---I'm sorry, sir, thank you, sir.

MR WATSON: Now, I was going to ask you but that answer may refer to this. You're aware that there came a time when there was a negotiation between people at Cascade Coal to get the Obeids off the record?---I'm aware of that.

10 Yes. Now, you did have some peripheral involvement in that, is that so?
---Can I ask the meaning please?

Sorry. What I'll do is I'll just show you another document?---Sure.

Could the witness be shown Exhibit 33, if you'd close that one. Exhibit 33 is part 4, volume 4.

THE COMMISSIONER: Let's keep it as J, Mr Watson, J-33 because - - -

20 MR WATSON: So sorry.

THE COMMISSIONER: Yeah.

MR WATSON: It's J-33.

THE COMMISSIONER: That's part 4 volume 4 is it?

MR WATSON: Part 4 volume 4 and it's way down at the back, page 1199?
---1199?

30 1199?---Now, before I get you to look at that letter I'll ask you a couple of questions. The journalists in the Fairfax press were getting interested in the activities in the Bylong Valley, do you recall that?---Yes.

And your name and Mr Kaidbay's name are being mentioned is that so?
---That's right.

40 Because of the name Gardner Brook and because of the name Andrew Kaidbay did anybody suggest to you that something had to be done about your involvement?---Not because of the press side I don't think.

All right. Okay. Now what I'll do is I'll show you this letter. I don't know whether you've ever seen it before but you'll see that it's on the letterhead of Buffalo Resources?---Which page, sir?

1199?---Oh, yes, yes.

It's on the letterhead of - - -?---I've never seen this before.

You've never seen it?---No.

Well, what I want to show it to you is to show you certain things that happen as a result. You'll see that it's dated 11 May, 2010 and it's directed to Cascade Coal and there's an agreement under which it's stated that Buffalo was acting, Buffalo Resources was acting as a bare trustee and the trustee was to be changed from Buffalo Resources to Southeast Investments Pty Limited. Did you know anything about any of this?---No.

10

Well I'll just show you, if you turn - - ?---Well if I did I don't recall it.

Well what, what I was going to show you was that there does seem to at least involve your interest. At page 1200 there's the first page of a document which if you turn over is a document under which Buffalo Resources retires as trustee and Southeast Investments is appointed the new trustee. Do you see that?---Yes, sir, I do.

20

And then it refers to the trust which is involved and if you look at page 1202 you'll see that on behalf of Buffalo, this is signed by Kaidbay and Sindone, see that?---Yes, sir.

And on behalf of Southeast Investments by a Sevag Chalabian. Do you see that?---Yes, sir.

Now Sevag Chalabian, you know him?---I've met him once or twice.

And he was a solicitor?---Yes.

30

And he was a solicitor for the Obeids?---Yes.

And I think for Mr Kaidbay?---I don't know.

Anyway if you look the annexure is at page 1203 and it's that original trust under which Buffalo Resources had been appointed as trustee for Warbie and Equitex?---Mmm.

Now did anybody refer these issues to you for - - ?---No.

40

But your interests in Mount Penny were extracted and paid out, is that so?---Yes, that is true.

And the way that that was done was by a separate payment being made to you. Is that right?---Correct, yes.

Now could the witness be shown Exhibit 32, J-32, Commissioner? It's part 4 volume 3?---Sir, do you want me to close this now?

Yes, please?---Thank you.

Now this is one we call Exhibit 33, it's part 4 volume 4, no, sorry, we call this Exhibit 32 and it's J-32 and it's part 4 volume 3 and I want you to go to page 821.

THE COMMISSIONER: So page - - -

MR WATSON: 821.

10

THE COMMISSIONER: Thank you.

MR WATSON: This you'll see is a document, it's a few pages long but the parties are nominated as being yourself, your company Warbie, do you see that?---Yes, sir, I do.

Southeast Investment and Coal and Minerals Group Pty Ltd. Do you know that company Coal and Minerals Group Pty Ltd?---That's - I believe that's owned by Mr Poole.

20

If you go to page 827 you'll see that there are copies of signatures on this document?---827?

827?---Yeah, yes, sir.

And it seems to me that you've signed on behalf of Warbie and also the second last signature you've signed in your own capacity. Is that right?---That's right, sir.

30

And then for Southeast Investment I want you to assume that's Sevag Chalabian's signature?---If you say so.

And then for Coal & Minerals that's Richard Poole?---Yes.

Did you hammer out this agreement with Richard Poole?---It wasn't much of a hammer.

Well was somebody getting hammered, or - - -

40

THE COMMISSIONER: Or did you negotiate it with him?---Well I, I, I wanted to sell my interests.

MR WATSON: Your interests in Mount Penny?---Yes.

So did you speak to somebody?---I spoke to Richard. Well, I spoke to Mo first.

Yes?---Mo said speak to Richard. Richard and I caught up, within 24 hours we agreed on the number and they drafted this document.

Mr Poole arranged for this?---Well, or Sevag.

Right. And, well, if you look into it, it recites a background. Warbie has 12 per cent which- - -?---Which page is that?

Sorry, page 821?---The recital, yes.

10

It recites a background. Warbie has a 12 per cent interest in the trust fund, Warbie's agreed to sell it to Coal & Minerals, et cetera, et cetera?---That's right, sir.

And then in the definitions on the same page, the joint venture is defined as the right of the trustee, I'll remind you the trustee was defined as Southeast Investment Group, the right of Southeast Investment Group to be issued 25 per cent of Mount Penny?---Sir, could you just- - -

20

It's item D?---Item D, sorry.

THE COMMISSIONER: Definition of joint venture.

THE WITNESS: Yeah.

MR WATSON: And then you'll see at H, the purchase price is \$1,750,000? ---That's right.

30

Now, we have evidence that Amanda Poole, a lady named Amanda Poole, deducted from her bank account \$1,750,000 and transferred it to you or most of it to you, part to Sevag Chalabian who apparently took some legal fees?---Yes.

Do you know why Amanda Poole was sending you the money?---Ah, no.

Now, I'm going to tell you something again, not all of them, but some of the people from Cascade have told the Commission they had no idea that the Obeids were behind the 25 per cent interest in Mount Penny.

40

THE COMMISSIONER: Buffalo Resources?

MR WATSON: Which at one time was under the name Buffalo Resources. No idea. During the negotiations leading to it, those people from Cascade you met, you've nominated them, is there any doubt in your mind that that was openly discussed and openly on the table?---It's outrageous.

You're saying it's outrageously wrong or right?---It's wrong.

Wrong?---The Obeids and Cascade at all times were dealing with each other, always.

Now, in terms of the Yarrawa tenement- -?---Yes.

- - -if I can go there, Monaro Mining had actually kept that bid and they won?---Well, yes.

And- -?---Well, Loyal Coal ended up getting it.

10

I'm so sorry, yes, they kept it but it had been transferred effectively to you
- - -?---Correct, yes.

- - -so that when you won the bid you were the happy owners of a \$2 million dollar debt for the additional financial contribution. Is that right?---Correct.

20

Now, when you won that Yarrawa tenement bid, did you speak to any of the Obeids?---They, they, Yarrawa was never much on the radar, but because Loyal was owned 25 I think or 12/88 where it was, I spoke to them and said, you know, I think you could get somebody to JV this deal.

We've heard the express used here, "Farm in." Do you know that expression?---Yes, I do.

It's used in the mining industry particularly?---Yes, yes.

Well, when you won Yarrawa I did ask you, did you speak to any member of the Obeid family about the fact of having won it?---I would have had to.

30

Well, are you saying yes, you did?---Yes.

And the point is this, is that under the terms of the bid it really made you liable in 30 days to pay the \$2 million additional financial contribution plus some other licence fees and the like?---That's right.

Now, were you liquid, would you have been able to put in your share of that?---No.

40

And did you speak to a particular member of the Obeid family about what should be done about it?---It, no, not really, no.

Well, did you- -?---No, no.

Did, did you just act off your own bat?---I did.

And what did you do?---I rang CoalWorks.

Right. And there's a man there called Warren Mitchell?---Wayne Mitchell.

Wayne Mitchell, so sorry. And you tracked him down did you?---Well, yes.

Again this is a kind of cold call?---Well I knew, because the DPI disclosed they had bid.

That CoalWorks had bid?---Yes. So it was an obvious thing to do.

10 And so you rang him and put a proposal to him?---Yeah, I told him that I had control but I needed – again I was brokering a deal and I brokered a deal with him.

Well are you saying you did all of this with or without the permission of the Obeid family?---I did it without their permission.

20 All right. And the deal that you struck with CoalWorks, if I cut to the chase, meant that CoalWorks would farm in by meeting expenses of the additional financial contribution and the other payments to be made to the government?---Via I think a (not transcribable) notice.

Right?---Yeah.

And also CoalWorks would meet the expenses of the exploration under the licence?---CoalWorks would basically take the whole thing over.

And the Royal Coal interest would be left at 10 per cent, however?---Yes.

30 But I'm not so sure – it wasn't a free carry, was it? It was – Royal Coal did have to meet 10 per cent of the expenses, is that so?---I can't recollect, sir.

You sold out of that as well?---Yes.

And I'm just not eager to burden you with too many more documents but if anybody wants to look at it, it would be in Exhibit 28, part 3 Volume 7 at pages 1820, 1828 and 1834. The point is you sold out to a man named Joseph Georges, is that right? No, so sorry, no. To brothers named Abood, is that so?---I rang Andrew Kaidbay.

40 Yes?---I told him I needed money, I needed to sell and he arranged a buyer.

And did you understand that buyer was a company associated with a man named Abood?---At the time no.

He just arranged it and negotiated a price for you?---Yeah. I was living, well, Singapore and Andrew just put it together for me.

And I think you sold that for something in the order of a quarter of a million dollars?---About that.

You know nothing else about what's going on at Yarrawa? You sold your interests and lost your interests?---Well I needed the money and CoalWorks was under siege anyway.

All right. Well look, now I want to ask you to look at something else. So if you close that and I'll ask that the witness be shown Exhibit J-24. This is a document that you will see, you would've been here yesterday when it was shown to Mr Selby?---Yes, sir.

10

It's Mr Selby's statement, and you in fact have read that, is that so?---Yes.

And in fact the markings in handwriting which were copied down the margin on some pages, that's your notation, is that so?---Ah hmm, yes, sir.

And what you've done was go through it and indicate where you thought something was either completely wrong or required correction?---This was a blackmail document.

20

All right. Well you've marked it in some places where you say no something is wrong?---It's just me going through it. Righto.

Who was trying – was somebody trying to blackmail you?---This was sent to, I believe, the Obeids and I believe Andrew Kaidbay provided me a copy when I was down in Australia, down here.

30

All right. Well, if I show you some parts of it, you'll see that on the first page there's a bit of background which introduces Mr Tunks and Mr Lazar and a description of your background. You have read this haven't you?---Yes.

And a description of a building friendship between yourself and Mr Selby? ---Ah hmm.

And then a description of an involvement by the Obeids and not all of it to - not all of it deals with matters with which you'd be familiar, for example there's a reference for Mr Calleia but I don't know that you were involved with him?---No.

40

Is that right?---That's right.

Now, if you go, however, to the third paragraph in the final paragraph which commences with the words "I attended the meeting". Everything which is on that page is, is accurate, is that right?---I didn't have 250 million sign off.

Oh, right, okay?---And sorry, let me read it again?

Yes, please?---If you don't mind?

Yes, please?---Yeah, and that's, that's the lunch came about.

And then if you look over the top four lines I think - - -?---Of the next page?

Of the next page you would agree are accurate?---Yeah.

Now there's something there about whether or not it was further said that maybe the Premier could be organised but do you remember what that - - -?
10 ---Yeah, I remember that and he didn't come.

And then at the end of the paragraph there's the reference to Mr Kaidbay passing by?---Yeah, that's inaccurate.

It's inaccurate?---Yeah.

Which part of that is inaccurate? I, I thought you did say that Mr Kaidbay did contact you and said that he'd seen you there?---I'm sorry, I was not looking at the right part of it.
20

All right?---But I already knew Mr Kaidbay - - -

All right?--- - - - and we never did deals.

No. All right. Well, then the next paragraph there's a suggestion by Mr Selby that he had also been at several meetings with you and Moses and other, other Obeid boys at the Wentworth. Now, is that right? Do you remember Selby being there?---Well, Selby introduced me to Moses.

30 Yes. These are subsequent meetings you see. He says subsequent to this, I had several meetings with Brook and Obeids at the Wentworth Hotel?
---There might have been a couple.

And Selby did attend those did he?---Initially, yes, I think so, yeah.

And then he refers to on one occasion one of the Obeid brothers opening a large number of maps or, sorry, a series of large maps?---There was only one map to my recollection.

40 All right. And then there's this statement to the effect that one of the Obeid boys went on to explain that the whole area in and around their farm was full of coal and that the Department of Energy Resources was very soon, that is inside two months, to announce a closed tender list for companies to tender for Exploration Licences?---I believe I've already confirmed that, sir.

That's all true?---Yeah.

Now, Selby also goes on to say that at this meeting Moses Obeid said that they'd previously selected a heat seeker, that's a funny expression. Is that one of yours?---I - sometimes I've described people that way.

Or is it one of those sort of sayings in your industry, fairly common - - -?
---It's a banking saying, sir.

All right. And there's the reference there to Alan Fang and Tianda, do - - -?
No, that, that's not correct.

10

And what about this. Mr Selby claims that there had been publicity linking Mr Fang to Ian Macdonald. Do you see that?---Yeah.

Do you remember anything being said about that?---No.

Do you know of any information which linked Mr Fang to Mr Macdonald?
---I've never taken any interest in it either.

20

Well, then a few lines down it suggests that you asked a question and Moses Obeid replied, "Well, the outcome of the tender process is already guaranteed as we've got the Minister, Mr Macdonald, on side." Do you remember something like that being said?---I don't recall that exactly being said but Moses was very, how should I put it, confident about his contacts in Government.

Well, now, over the- - -

THE COMMISSIONER: His contacts that would help him?---Pardon?

30

His contacts that would help him?---Yeah.

MR WATSON: Over the page there's some reference to you finding Monaro Coal a microcap, but you say that's wrong?---That's all, that's all wrong.

And then there's a story about Moses turning up and pretending he's Richard somebody and you disagree with that, do you?---It's just, I can't explain why he wrote it.

40

All right. Well, the next paragraph has got a tale of an aborted meeting between you and Selby at Colin, Biggers & Paisley. Do you see that?
---Yes.

Did that happen?---I think it might have. It's a long time ago, sir, I'm not sure.

It ends that page with a reference to Lehman Brothers collapsing and you and Selby having a falling out over money and I think there is some truth to that. Is that so or - -?---He's lying.

All right. Was it, oh, that's right, I'm sorry, I heard your barrister ask questions, it was a falling out over a women. It's over romance or money, that's the usual source of a falling out, isn't it?---It's fabrication.

Could you return that document?---Sure.

10

Mr Brook, have the Obeid family tried to contact you about giving your evidence here at the proceedings?

MR LITTLEMORE: I object to the use of the word Obeid family.

MR WATSON: It's not a word, it's actually a phrase.

MR LITTLEMORE: Thank you so much.

20 THE COMMISSIONER: Well, I think be specific, Mr Watson?

MR WATSON: Yes. Have you been, has any person with the surname Obeid been trying to contact you?---No, no.

Haven't you received some text message or the like?---Oh, I received an email from Moses- - -

Yes?--- - - -recently saying, out of the blue, saying what's up big fella, something like, like that.

30

Any text messages or things like that?---I got a text from Andrew Kaidbay.

Right. I was going to ask you about Mr Kaidbay. He's very close to the Obeids I think. Is that right?---Yes.

Now, Mr Kaidbay did approach you a while back now?---Yeah.

Is that so? And he, I think you were about to get on an aeroplane. Is that so?---I- - -

40

I withdraw that. I'm not going to suggest that's accurate, I may have misunderstood that. What I'll show you is however, what he gave to you?---Oh, yes.

He gave you a document, and I'll just have this shown to you?---I remember now what you're talking about, sir.

All right. Well- - -?---Thank you.

Now, is this the original size?---(No Audible Reply)

Is this the size of the document that Kaidbay gave you?---No, I, I blew it up.

All right. So what size was it when you had it?---It was A4.

A4?---Yeah.

10 And, well, I suppose this blown-up version is easier for us to read in any event?---That's why I did it.

Now, Mr Kaidbay gave you this, did he?---Yeah.

When did he give it to you?---He gave it to me before the private hearing.

Before the private hearing?---My private hearing.

20 Well can I remind you - - -?---I think, or after, I'm not sure. No, before, definitely before.

Before. Can I remind you that you came and gave evidence at a private hearing on 12 March 2012?---Yes.

Now the fact is that you've been living in Singapore and you were coming back to Australia and we made an arrangement to fly you to Sydney to get your evidence?---Sure.

30 Now you told Kaidbay that you'd been summonsed to appear?---Yes.

And he met you in Sydney?---Yes.

Now the fact is that the Obeid family organised for your legal fees to be paid for your occasion?

MR LITTLEMORE: I object – family.

40 MR WATSON: All right, so sorry. You had to arrange urgently legal representation, is that so?---That's correct.

And a solicitor and a barrister appeared for you?---Yeah, that's correct.

And somebody paid for that?---That's correct.

And did you speak to Andrew Kaidbay about who paid for it?---No.

Right. Did you make any inquiries who paid for it?---No.

I'm not being critical of you here, I mean - - -?---I didn't.

You – but you're saying that you accepted this as what - - -?---Well - - -

But anyway I don't suppose the lawyers just dropped in out of heaven?---It was – I was, you know, pretty alarmed.

Alarmed by our summons?---Yes, of course. And I just told Andrew, mate, I need a barrister.

10

And he organised something for you?---Yes.

Well we might ask you one or two questions about that in due course, but it was before you gave evidence that he gave you a copy of this document?---Mmm.

Is that answer yes?---Yes.

20

It's being sound recorded?---Yes. Because I did not see him after the private hearing.

All right. Well did he meet you at the airport or something? Or where did he give you the document?---In his car.

All right. Did he collect you to drive you somewhere?---We went for lunch.

All right. Now what was the – what did he say when he passed you this document? Did he tell you what it was?---No, he just said have a look, have a look at this when you get back.

30

Did he tell you where he got it from?---He got it from - - -

No, did he tell you where he got it from?---Yes.

Where did he say he'd got it from?---The Obeids.

And apparently people don't like that sort of generalisation. Did he say which Obeid?---I don't recall him saying which, which one.

40

Well he'll be in trouble about that apparently.

THE COMMISSIONER: All right, Mr Watson.

MR WATSON: But he – so he said he got this from the Obeids, and what was the purpose of giving it to you?---He didn't actually say at the time. He said you better take a look at this.

And did he say why?---No.

And - - ?---But once I read it I realised why.

Well, well I'll come to you reading it in a moment, and then Mr Kaidbay also, I think, spoke to you about some of the evidence that you were going to give?---We didn't speak about evidence.

10 You, well Mr Kaidbay has told us that he tried to help you fill in your recollection, as it were, about some of the dealings. Do you think that might be right?---Possibly, I have a very poor memory but - - -

All right?---We didn't, we had lunch and it was basically, mate, just go in there and tell the truth and there was no coaching or anything like that.

All right. Well I tender that, Commissioner, this enlarged version.

THE COMMISSIONER: Yes, it's in the form of a timeline, isn't it?

20 MR WATSON: Yes, I think that's the best way to put it.

THE COMMISSIONER: Exhibit J-38 is the timeline given to Mr Brook by Mr Kaidbay.

#EXHIBIT J-38 - FORM TIMELINE GIVEN TO MR BROOK BY MR KAIDBAY

30 MR WATSON: Well, Mr Brook, you read that document – we're calling it a timeline – is that so?---Ah hmm.

Did you read it, you have to answer?---Yes.

And the point is – did you agree with all of it?---No.

And I think you prepared another couple of documents, one was your own copy of the timeline in which you marked things with which you disagree, is that so?---Yes.

40 And you also prepared another typed script document which made references back to your marks and said what you - - ?---Correct.

- - - say is the truth. Now I'll show you a copy of each of those.

I'll show you this. Is this a copy of the timeline that you've marked?---That doesn't look like my handwriting.

What, the numbers on it?---Mmm. I think it's a - because I met with my barrister in Singapore I - - -

Sorry, he may have marked it up - - -?---Yeah.

- - - on your instructions however?---Well, I, I had it marked urgent.

Right?---I gave him a plain version and - - -

10 Could I just ask you to look at this and tell me whether this is a copy of your comments on the timeline and what you can do is, I believe, is match the numbers on this typed sheet with the numbers which are marked on the timeline to see what your comment is. Is that right?---Yes, sir.

You'll see that for example on your marked or sorry, on the marked version of the timeline there's a 1 on the first page and what that is is events about - well, I'm not sure whether it does match up?---No, I don't think it does.

20 You'll see the 2 on the second page does appear to match up?---I think it's, yeah, I think - - -

Anyway, we'll do our best to match up the two. Was the typed script an attempt to comment upon things which have been asserted by the Obeids in their timeline?---Yeah, yeah.

All right. I tender those two documents as well, Commissioner.

30 THE COMMISSIONER: Yes. J-39 is a marked version of the timeline J-38 and J-40 is a document entitled PGB version of events, rebuttal of Obeid version.

#EXHIBIT J-39 -MARKED VERSION OF THE TIMELINE J-38

**#EXHIBIT J-40 - ENTITLED PGB VERSION OF EVENTS –
REBUTTAL OF OBEID VERSION AS PER THEIR SPREAD SHEET**

40 MR WATSON: Now that - - -

UNIDENTIFIED SPEAKER: We couldn't hear any of that.

MR LITTLEMORE: 39 and 40.

MR WATSON: 39 and 40.

THE COMMISSIONER: I'll, I'll say it again. J-39 is a marked version of the timeline J-38 and J-40 is a document headed PGB version of events, rebuttal of Obeid version as per their spreadsheet.

MR WATSON: Now, you'll see here on the second page of your marked timeline - - -?---Yes.

10 - - - that there are references, say four, where this document given to you by Kaidbay and said to have come from the Obeids - - -?---Yes.

- - - the area marked 4 is a suggestion that Gardner met with Moses and Gardner brings some geological information on Bylong coal areas along. Is that true?---No.

I mean, did you know where Bylong was?---It's completely false.

Completely false?---Yes.

20 Well, then read on. This is what I understand - well, Mr Kaidbay says he got from the Obeids, I understand the Obeids will say that it was suggested that it was you, Mr Brook, that he told, you told the Obeids that one of the mining companies you were working with had told you that the government is calling for tenders this year and Bylong is likely to be one of them. Was that true?---No.

And that you were telling them that as property owners they should get organised?---That is incorrect.

30 And then if you go down to 5 it seems to be suggesting, Mr Brook, that it was you through Lehman Brothers who was in a joint venture with Monaro, not the Obeids?---It's false.

Is that right?---No.

Now in your response to that – if it is the response that's Exhibit 40, the typed document, what you've put in is this, "Moses told me that he had knowledge that junior explorers would be invited to tender because big miners were land banking Exploration Licences."?---Ah hmm.

40 Do you see that?---Which number is that, sir?

Number 5, the second sentence?---The second sentence, yeah.

Is that something that Moses told you?---Yeah.

And I could go on but you'll see that the, the timeline which was said to have come from the Obeids seems to suggest that you were the mastermind in all of this?---It's a pretty self serving document.

And not right?---It's not right.

Now, could I also draw your attention to this, that if you go to the Obeid timeline item 2A it says that the Obeids decided to purchase both Donola and Coggan as a rural consolidation with the mine issue as a defensive strategy only?---Sorry, is that 2A?

Well it's under the heading purchase of farms and land?---Sorry.

10

Do you see that?---Yeah, I see that.

THE COMMISSIONER: In 2008.

MR WATSON: And did Moses or any Obeid say anything even vaguely like that to you at any time?---No.

20

I think the rest of it will speak for itself, Mr Brook. Now Mr Brook, I do need to take you back to something and I want to actually – I want to warn you, I want to lock horns with you a little. Mr Macdonald's name had been mentioned, it was known, was it not, by you that Mr Macdonald was providing information to the Obeids? That's what I want to put to you. Do you accept that?---Not directly.

Well did you indirectly come to know that or believe that?---Over time I suspected it.

30

Well could the witness be shown Exhibit J-17? Would you go to page 423? Would you look at page 423? Now do you see this is an email by Mr Grigor to you?---Ah hmm.

And dated 9 September 2008? Do you see that he's asking you for a better idea of delivery time, do you see that? Are you answering that yes by nodding?---Yes, I am, sir.

40

Now the point is that we know that the letter sent out by the Department was dated 9 September 2008 and presumably couldn't really arrive before 10 September 2008 at least. Do you accept that Mr Grigor in that email was asking about a delivery time for invitations to participate in the EOI process?---That is correct.

Now I want to show you the next page. Now the way that these email chains work, it really starts at the bottom. You'll see that it's that same email I just showed you, September 9, 8.10am, Grigor asking is there any way of getting a better idea of delivery time, then up the page you respond two minutes later, "I wish I knew for sure, all I have been told as recently as yesterday is that it should be this week." Who was telling you?---Moses Obeid.

Well now I want to ask you about the next entry. Warwick Grigor asks you, "Do the changes in the labor party in New South Wales impact the deal at all?" And your answer is, "No." His response to that is, "Cool." Do you see all of that? I just want to remind you of some historical facts. On 5 September 2008, Ian Macdonald was terminated in his role as a Minister and in particular in his role as the Minister covering Mineral Resources. Did you know that?---I don't recall that exactly, no.

10 Do you think that's what Mr Grigor was referring to in his email?---
Probably, yes.

Well, there's another development actually. After a change of leader, Mr Macdonald was reinstated as the Minister responsible for Mineral Resources on 8 September, 2008. So this is all just happening at this very time that Mr Grigor's sending this?---Right.

Mr Brook, I'm just going to suggest to you it can't be a coincidence, Mr Grigor obviously realised that something is going on which might be
20 influenced by these action of the Labor Party and in particular the rise and fall of Ian Macdonald. Don't you agree?

THE COMMISSIONER: The fall and rise.

MR HALE: Well, I do object to this.

MR WATSON: The fall and rise.

MR HALE: The invitation to speculate. It's one thing to give evidence of
30 what he's been told, it's another thing to speculate about what somebody else has said.

MR WATSON: I think that's a fair objection, I'll withdraw that. See, what I want to suggest to you is you must have been talking to Grigor about the fact that Ian Macdonald somehow or another was a conduit of the information?---I had told Grigor that I had strong connections with the Labor Party.

That you did personally?---Well, Moses Obeid.
40

Right. But you told Grigor that you had them?---Well, I, yeah.

Did you drop Macdonald's name?---I don't think I did.

Well- - -

THE COMMISSIONER: So where did, where does Mr Grigor get the idea from that the changes in the Labor Party could have an impact on the deal?

---Well, Commissioner, because I had informed Mr Grigor of, of what I had been told by Moses and with the changes in the Government he was concerned that the EL's may not be issued or something.

What did you tell Mr Grigor, what did you say to Mr Grigor that duplicate what Moses had told you?---I don't recall, Commissioner.

Well, you said, I ask you that because you said that you had told Grigor what Moses had told you?---That's right.

10

And what was that?---That I rang Moses, Warwick Grigor was worried about, well, the Government- - -

Well, about what?---Shuffling, shuffling, whatever that was.

Shuffling what?---Well, I don't- - -

Well, it's pretty obvious, isn't it?---Well, it is in hindsight, yes.

20

But is that the word you used, shuffling?---No, sir.

I'm not sure what you're saying then, Mr Brook?---I rang, Mr Grigor sent the message, I then would have called Moses and said, look, I've been asked this question, and Mo obviously told me there was no issues, no problems.

So the, what, what you're being questioned about is what did you say to Mr Grigor that caused him to send the email to you inquiring whether the changes in the Labor Party in New South Wales impact the deal?---Because the EL's were a, a, the initiative to issue EL's to small and medium companies, explorers, it was a new initiative.

30

MR WATSON: Mr Brook, I've shown you a lot of documents today and including some maps and some documents listing names of mining companies and the like. Was that material all obtained through Moses Obeid?---Predominantly, yes.

Can you think of anything that wasn't?---Well they would - some things came from Monaro but - - -

40

THE COMMISSIONER: Mr Watson, is this a convenient time?

MR WATSON: Yes.

THE COMMISSIONER: I might want to put something to Mr Brook that he would like to think about over the adjournment.

MR WATSON: I'm really very close to finished and it might be a chance for Mr Brook to relax knowing that I would then be quiet.

THE COMMISSIONER: Yes, very well.

MR WATSON: I'm told that it would be better if we take the adjournment.

THE COMMISSIONER: Yes, we'll adjourn for 10 minutes.

SHORT ADJOURNMENT

[3.00pm]

10

MR WATSON: Could you close that one up and I'll just ask that you be shown Exhibit J-18. Thanks, Mr Brook. Mr Brook, would you open it up at page 648. I should have asked you about this a little earlier. Now, Mr Brook, this is the minutes of a meeting of Monaro Mining the parent company and it says who's present et cetera, et cetera. Some of the people are participating by telephone but the part that I want to you, show you is on page 649 where right towards the bottom, the second last point, it says that you joined the meeting to discuss financing and then if you look it follows the history, 24 November, 2008 the company, that's Monaro Mining, lodged an Expression of Interest for nine of the 11 coal areas, et cetera. And then in respect of Mount Penny there's - the first bullet point is that pointing out that Mount Penny is the main area of interest and then it refers to a non-binding memorandum of understanding with a company, a Chinese company. Mr Brook, did that company exist?---Yes.

20

Well, we've been trying to find it and we can't find it, we can't find that it ever existed?---I've been trying to find their business card actually.

30

Well, it'd be helpful to us if you could. You see, we're troubled by it Mr Brook for two reasons, the first is the very final bullet point in that section which is "Mr Brook is very confident that Monaro will be granted an Exploration Licence for the Mount Penny release area", do you see that? ---Yes, sir.

Now this is what I've been referring to for some time about your confidence in this, about whether it was derived from something that you'd been told and something in the nature of inside information. Do you want to say anything about?---Derived from Moses Obeid.

40

And speaking of Moses Obeid can I show you another document and you keep that page 650 open, what I want to show you is that this is a document which is a draft of the memorandum of understanding with the Chinese company, we call it Tianci, T-i-a-n-c-i, can I call it that and you'll know what I'm referring to?---Ah hmm.

Do you see that that's a draft of the memorandum of understanding?---Yes, I do, yes.

Could you explain to us how that could be in the possession of the Obeid family?---Because I was involving Moses in the drafting of the MOU with Tianci.

What - - -?---Tianci is real.

THE COMMISSIONER: Sorry, Tianci is what?---Real.

10 MR WATSON: Real?---It is real.

But what skills can Moses bring to the drafting of a complex financial document, can you tell us?---Well, I don't know whether it was him directly or what but he wanted to be involved.

Well, we found that document, the one you have in your hands or a copy of it, rather, in the same manilla folder that we ceased from Paul Obeid's office. Can you explain that?---Because I, as I said, when I was negotiating with Tianci I was involving Moses in, in the process.

20

Well, what - well, again, I've got to ask you what, what could they do in terms of drafting a memorandum of understanding in a complex transactions like this?---Again I was, I was being asked to include Moses.

Could I ask you to close the document and just look at the footer on the first page?---Yes.

You'll see that in fact the footer makes it pretty plain - - -?---Yes, sir.

30 - - - that it was on Moses Obeid's computer, the green footer, you see that?
---Yes, sir, I do.

Could that document be marked, Commissioner?

THE COMMISSIONER: Yes. The document headed memorandum of understanding Mount Penny New South Wales will be marked MFI 13.

40 **#MFI 13 - MEMORANDUM OF UNDERSTANDING MT PENNY
NSW**

THE COMMISSIONER: Who were you negotiating with on behalf of the Chinese company, Mr Brook?---With Tianci, Commissioner, it was either directly or via Mr Barry Yin. I'm not, I can't recall.

MR WATSON: Thank you, Commissioner, they're the questions I have for Mr Brook.

THE COMMISSIONER: Yes, thank you. Mr Brook, I'm now going to invite barristers representing various interested parties to question you. You've been sitting here before, have you, you've been sitting in the hearing room yesterday?---Yes, sir.

Yes?---Yes.

So you understand the process?---(No Audible Reply)

10 You understand the process?---I'm going to be cross-examined, yes.

Yes?---Yes.

Yes. Is anybody here on behalf of Moses Obeid who wishes to question?

MR ROBBERDS: No questions.

THE COMMISSIONER: Yes. Mr Littlemore, you wish to question on behalf of Mr Edward Obeid?

20

MR LITTLEMORE: I do, a small number of questions about their acquaintanceship.

THE COMMISSIONER: Yes. Very well.

MR LITTLEMORE: You understand, Mr Brook, that I represent Mr Obeid Senior?---Yes, sir.

30 A person with whom you've had little or no contact?---Correct.

You have never had any contact with him at all in relation to Mount Penny, have you?---That is correct.

Or coalmining?---That is correct.

Or any joint venture?---That is correct.

Indeed, the only substantial meeting you ever had with him you were in a most unimpressive condition. Isn't that right?---I don't recall.

40

There was a night I put to you where you met him at Moses Obeid's house when you were showing signs of substance abuse?

MR TYNDALL: I object. I object.

MR WATSON: So do I, Commissioner.

MR TYNDALL: He either met him or he didn't.

THE COMMISSIONER: What is the relevance of that, Mr Littlemore?

MR LITTLEMORE: That he is the last person Mr Edward Obeid would have done business with.

THE COMMISSIONER: No, I won't allow that.

MR TYNDALL: It's not suggested- - -

10 MR LITTLEMORE: No, it's not questioned.

THE COMMISSIONER: It's not, nothing was suggested to that effect. That, that question is struck out.

MR LITTLEMORE: As you please.

THE COMMISSIONER: Yes. I think the next person with an interest in this is the Cascade individuals. Is anyone going to volunteer for first go?

20 #UNIDENTIFIED MALE VOICE: I'm happy to volunteer.

MR WATSON: Sorry, Commissioner, there are, there is a representative for the other Obeid boys apart from Moses.

THE COMMISSIONER: Oh, yes. Does anyone else on behalf of any of the Obeid family want to question the witness?

MR TURNBULL: Turnbull, Your Honour.

30 THE COMMISSIONER: I beg your pardon?

MR TURNBULL: Turnbull.

THE COMMISSIONER: Yes, Mr Turnbull.

MR TURNBULL: Just one aspect- - -

THE COMMISSIONER: Would you just explain to Mr Brook who you are and who you represent, please?

40

MR TURNBULL: I'm appearing for Paul, for- - -?---Paul Obeid, sir?

Indeed?---Okay, sir.

And that's, and for other associated brothers, but I've just got one area of questioning in relation to an exhibit, Commissioner.

THE COMMISSIONER: Yes.

MR TURNBULL: J-40, PGB version of events, rebuttal of Obeid version as per their spreadsheet. Remember that?---Sorry, could I get a copy of that? I'd like to get the copy if you don't mind.

Sure.

THE COMMISSIONER: Would you give Mr Brook a copy of that.

THE WITNESS: Number 4?

10

MR TURNBULL: Yes, indeed. J-40 it should be. The PGB version of events?---And number 4 on the page?

Well, I've just been handed it you see so- -?---Oh, I'm sorry, all right.

It's the one that you apparently prepared in response to the spreadsheet?
---That's right.

Did you tell the truth in that document?---Yes.

20

Nothing further, thank you.

THE COMMISSIONER: Yes, Mr Dick?

MR DICK: Thank you, thank you, Mr Commissioner.

THE COMMISSIONER: Will you please explain who you are?

MR DICK: Yes. Mr Brook, my name is Robert Dick. I appear with Mr
30 Withers for Brian Flannery?---Right.

Do you understand that?---I understand.

THE COMMISSIONER: Now what, I just like to know what areas you're questioning, Mr Dick.

MR DICK: I just want to ask some questions about the conversation that Mr Brook says that he had with Mr Obeid that referred to- - -

40 MR COMMISSIONER: You'll have to put your affirmative version.

MR DICK: Yes.

THE COMMISSIONER: Yes.

MR DICK: Yes. Well, I'll certainly put my affirmative case as it were. I mean it's not suggested that this witness had a direct conversation with Mr Flannery but our affirmative case is- - -

THE COMMISSIONER: So what are you questioning him on?

MR DICK: I'm questioning him as to whether he is correct in his recollection as to what Mr Moses Obeid might have said to him.

THE COMMISSIONER: Was your client there?

MR DICK: No.

10 THE COMMISSIONER: I won't allow it.

MR DICK: Well, I press it, Mr Commission, because it is- - -

THE COMMISSIONER: No, I'm sorry. It does not help. I will not allow these kind of exploratory questions.

MR DICK: No, but- - -

20 THE COMMISSIONER: The other persons who were there can put their affirmative version.

MR DICK: No- - -

THE COMMISSIONER: If you've got something specific that you want to, which contradicts Mr Brook I'll allow you to put it but I will not allow the kinds of questions that you are entitled to ask in a criminal or civil trial to test the witness. This, this Commission has spent a lot of time testing the witnesses and has come, and has, if everybody here were to be allowed to test the witnesses we would be here for several months and I have
30 determined not to allow that class of questions from anyone.

MR DICK: Could you hear me, Mr Commissioner, just briefly on this?

THE COMMISSIONER: Yeah. Ah hmm.

MR DICK: The difficulty is that for the first time my client and my instructors have heard that there is apparently a case to be advanced to the effect that Mr Moses Obeid had some negotiations with my client representing Cascade in connection with an agreement between Cascade on
40 the one hand and Monaro on the other.

THE COMMISSIONER: I'm very surprised to know that your client wasn't aware of this.

MR DICK: Well we are not aware of that, it's never been opened upon.

THE COMMISSIONER: Has it - - -

MR DICK: Our affirmative case, Mr Commissioner, is that Mr Flannery at no time negotiated any agreement on behalf of Cascade with Mr Obeid or with any interest associated with the Obeids or with any interest associated with Monaro.

THE COMMISSIONER: Well I will allow you to put questions to Mr Brook designed to support that case.

10 MR DICK: Thank you, Mr Commissioner. Mr Brook, you yourself have never had a conversation - - -

MR TYNDALL: Commissioner, I can't hear and I'm sure people at the back here can't hear.

THE COMMISSIONER: Yes, Mr Dick, if only you would – the sound only works if you speak above the microphone.

MR DICK: Yes.

20 THE COMMISSIONER: So is there some way of standing above it?

MR DICK: I'll do my best. Is that better?

MR TYNDALL: Yes.

MR DICK: Mr Brook?---Yes, sir.

You have never had a conversation with Brian Flannery, have you?---No.

30 No. And you have never attended at any meeting at which Moses Obeid and Brian Flannery were also in attendance, correct?---That's correct.

You've never observed Mr Flannery to be at a meeting with any representative of the Obeid interest, correct?---Correct.

And you've never observed Mr Flannery to be at a meeting with representatives of Monaro interest, correct?---Correct.

40 Now you've given some evidence that in or about April of 2009, Moses Obeid told you that he had had some negotiation with Brian Flannery, correct?---That's what he told me.

Right. And those negotiations you say Mr Obeid told you were connected with an agreement that was going to be entered into between Cascade on the one hand and Monaro interests or Obeid interest on the other, correct?---Well, that's correct. Yes.

Now the only source of your understanding about Mr Flannery's involvement is what Mr Moses Obeid told you, correct?---Yes.

Can you identify for Mr Commissioner any note or other document that refers to any alleged discussion between Moses Obeid and Brian Flannery?--No.

No. Now the document – do you still have in front of you document J-40?---Yes.

10

Is that a document that you prepared?---Yes.

When did you prepare that roughly?---A few months ago, I don't know. A few months - - -

So it's recent?---Reasonably, yeah.

So you didn't prepare it in or about April 2009 when you say you had your conversation with Mr Obeid?---No, it was this, this, it was this year.

20

I see. But I think you've given evidence that the content of that document is true and correct?---Yes.

Now – and it's responsive to Exhibit J-39 which you described as a spreadsheet, is that right? At the front of your document J-40?---Sorry, I may need to get a copy of that, please.

Yeah, yeah?---Thank you.

30 Just to be clear about it, at the front of your document J-40 you described - - -?---Which numbers, sir, sorry?

Right, go back to the front page of your document, all right?---I'm on there.

All right, look at the heading. It refers to the rebuttal of Obeid version as per their spreadsheet, correct?---Ah hmm.

And when you refer to spread sheet the document that you're referring to is Exhibit J-39. Is that correct?---If that's the one you're showing to me, yeah.

40

Yes. Right. Now I want you to go to the page of the spreadsheet that has the year 2009 on the left and then the number 21 in the middle column. Have you got that?---Yes, sir.

Now that sets out in the middle box some information that concerns you and some alleged dealings that you were said to have had with Cascade and others, correct?---Please repeat that question.

The information in the box next to 21 concerns you and some alleged dealings that you had with Cascade and some other people, correct? That's the, that's the subject matter of it?---Yes, the - - -

Right. And what you were purporting to do in the document which is Exhibit J-40 was to respond to any material in J-39 that you wished to rebut, correct?---(No Audible Reply)

10 Now if you go to paragraph 21 of your document, J-40, that was intended to respond to the information in the box in the spreadsheet where the item 21 has been written, correct?---That's correct, yeah.

Yes. And what you were saying in your response was that the information in the spreadsheet was absolutely not true, correct?---Correct, yeah.

Now do you accept that one of the topics that's being dealt with in item 21 are negotiations and dealings with Cascade?---Yes.

20 And you were seeking to set out comprehensively your recollection of that topic, correct, in paragraph 21 of your document?---Well, my document was initially just, just as - for me, so - - -

Yeah. But you were trying to do it correctly and accurately?---Yes.

And you don't refer to Mr Brian Flannery in your document do you, under that topic?---I don't believe so.

30 No. And what I want to suggest to you is that your recollection about Mr Flannery's involvement on behalf of Cascade is mistaken.

THE COMMISSIONER: Well, what recollection is that?

MR TYNDALL: Well, I object.

THE COMMISSIONER: What recollection is that?

MR DICK: The recollection that you had that Mr Obeid told you, Moses Obeid, that, that his dealings had been with Brian Flannery on behalf of Cascade?

40 MR WATSON: I object to that. That's something only this witness and Moses Obeid could know and Moses Obeid didn't challenge it.

THE COMMISSIONER: Yes, I won't allow it.

MR DICK: May it please the court.

You did give some evidence earlier that you had a very poor memory?

---True.

MR TYNDALL: I object.

MR DICK: What? Well - - -

MR TYNDALL: He didn't say he had a very poor memory.

MR DICK: Well, that's my note of what he said. And - - -

10

THE COMMISSIONER: I remember him reflecting on his memory.

MR DICK: - - - you have also given evidence have you not that you've been reading quite a lot of the press that's currently been covering this ICAC hearing, correct?---Of course.

And in the course of reading that material you, you will have read Mr Flannery's name, correct?---It didn't stand out.

20 Yeah.

THE COMMISSIONER: Do you say it did stand out?---It didn't.

MR DICK: It didn't, right?---It has stood, stood out to me.

As a general matter is it right to say that you at the time, that is in 2009, when you were looking to enter into a transaction with Cascade were more interested in the terms of that deal than the personalities who might necessarily have been representing Cascade in that deal, is that fair?

30 ---Moses Obeid introduced Cascade. All I cared about was the deal.

Yeah. And when, and when Moses introduced Cascade to you at no time was there any dealing or introduction or meeting involving Brian Flannery, correct?---That is correct.

Thank you.

THE COMMISSIONER: Mr Barry, what areas do you want to question the witness on?

40

MR BARRY: I want to deal with the evidence that was given by this witness as to the circumstances of which he came to deal with Mr John McGuigan.

THE COMMISSIONER: Have you got an – if you dispute what he said and have an affirmative case, will you put that?

MR BARRY: Yes.

THE COMMISSIONER: Yes, proceed.

MR BARRY: When did you first become aware that – I withdraw that. Did you become aware at some stage that Monaro Mining was going to be unable to comply with its obligations to pay amounts totalling something in excess of \$52 million for the various bids that it had made?---Yes, I, I formed that opinion.

10 When – not an opinion, when did you become aware of that fact?---When the board told me that they wanted to withdraw.

When do you say that was?

THE COMMISSIONER: It really is helpful to go back to the documents which establish that, Mr Barry.

MR BARRY: Yes, all right. I'll take you to - - -?---I'm not trying to be difficult, I just can't remember the date.

20 Have a look at exhibit, Exhibit J-18 at page 893?---Sorry, what page, sir?

Page 893?---Yes, sir.

Do you recognise that as being the board meeting to which you refer, that is a board meeting held on 22 May 2009?---Yes, sir.

30 Now can I just take you to the body of the document? In this document it says, and I want to take you through this, the chairman referred to the discussion between the directors and Gardner Brook held immediately prior to the board meeting?---Yes.

Where was the discussion held?

MR WATSON: Are you suggesting Mr Brook knows of this meeting, sorry?

THE COMMISSIONER: He's not at the meeting.

40 MR BARRY: I'm not suggesting that he was.

THE COMMISSIONER: So what is your question?

MR BARRY: Read the first line. The first line says the chairman referred to the discussion between the directors and Gardner Brook held immediately prior to the board meeting. I'm asking you about that discussion held between the directors and you immediately prior to the board meeting on 22 May 2009. You understand what I'm directing your mind to?---I have no knowledge of that discussion.

So this, you claim what is contained in this document is false?---I haven't read it.

THE COMMISSIONER: No, he's not (not transcribable)

MR BARRY: Well read it to yourself?---I wasn't at the meeting, sir.

10 No, I'm not asking you about the meeting I'm asking you about the discussion that you had with the directors that is - - -

THE COMMISSIONER: Well did you have - - -

MR BARRY: - - - referred to in the first two lines.

THE COMMISSIONER: Just establish whether he had such a discussion, Mr Barry.

20 MR WATSON: Well sorry, Commissioner, can I help?---How can I answer this question?

It's page 892 in any event I took the witness to it.

MR BARRY: My question is did you have a discussion just prior to 22 May 2009 on or about that date with the directors of Monaro Mining?--- Yes, I – it would appear so, yes.

30 And did you say during the course of that discussion that you wanted to take over the interest that Monaro Mining had in the bids that it was making?--- That's correct.

And did you say that you wanted to do that on behalf of a company called Voope Ltd?---Yes.

And did you say that Voope Ltd was a company which you had an interest in?---I don't recall saying that.

40 Did you have an interest in that company?---No, not directly. I was a director but not a shareholder to my recollection.

Did you say to the representatives at Monaro Mining that you wanted to attempt to salvage the coal project?---Well that was my argument to them, yes.

My question was - - -?---Did, yes.

And was that, is that what you represented to them?---Yes.

And was that representation true?---Yes.

And did you make the same representation to Mr John McGuigan?---(No Audible Reply)

THE COMMISSIONER: When?

THE WITNESS: Sir, the- - -

10 THE COMMISSIONER: When, Mr Barry?

MR BARRY: After 22 May of 2009?

THE COMMISSIONER: That's very vague.

MR BARRY: There is a reason for that, Commissioner.

THE WITNESS: I had not met John McGuigan until, to my recollection,
the end of May/early June.

20

THE COMMISSIONER: Of 2009?---Yes.

MR BARRY: And when you- - -

THE COMMISSIONER: Well, did you make the same representation to him, is the question?---Well, that was the deal, my, 'cause I was the contact with Monaro. I had to get Monaro to agree to withdraw and assign.

MR BARRY: I want to suggest to you that what you represented to Mr
30 McGuigan was that Monaro had, or a company with which you had previously been working on a deal was not proceeding with the deal and you represented that you had taken over that interest that they had?---I did not do that.

Well, do you accept that that's a fair reading of what's contained in the documents you have in front of you?---Moses Obeid- - -

THE COMMISSIONER: Sorry, which document?

40 MR BARRY: I'm not asking about Moses Obeid, I'm asking you about you.

THE COMMISSIONER: Is this the document at 893?

MR BARRY: Yes.

THE COMMISSIONER: So what part of the document?

MR BARRY: Where it said, "The chairman noted the request from Gardner Brook representing Voope Limited who had expressed the desire to attempt a salvage of the coal project, in particular Mount Penny, given their significant exposure to the project."

THE COMMISSIONER: But that's a representation to Monaro. What are you asking about Cascade, Mr Barry?

10 MR BARRY: I'm suggesting to this witness that what he had represented to, to Mr McGuigan was that he had been engaged in a deal which had not gone ahead and he was looking for a new coal company in relation to that project?---That's not true.

And I suggest that you represented in relation to that, that you were acting on your own behalf?---That is not true.

THE COMMISSIONER: Does Mr McGuigan deny that he knew that Moses Obeid at least of the Obeid family was involved, Mr Barry?

20 MR BARRY: It's a question of what, Commissioner, you mean by involved. There are two separate transactions involved here, one is a transaction in respect of the land, the other is a transaction in respect of the 25 per cent, what turned out to be a 25 per cent joint venture.

THE COMMISSIONER: The mining, the mining, yes.

MR BARRY: That's so.

30 THE COMMISSIONER: I'm talking about the joint venture.

MR BARRY: But the two are intertwined.

THE COMMISSIONER: But I'm asking whether you're making the affirmative case that your client did not know that the Obeids or any of them were involved in the transaction?

MR BARRY: No would be putting it too highly.

40 THE COMMISSIONER: Well, what is your affirmative case, please?

MR BARRY: The affirmative case in relation to which part of this?

THE COMMISSIONER: Well, let's take both.

MR BARRY: The affirmative case is that the arrangement that was made which is contained in the documents and referred to in various agreements was that in consideration for the Obeids providing the land for the coalmines which it was represented that they could do, the Cascade Coal

entered into a joint venture in consideration for that particular part of the transaction.

THE COMMISSIONER: I understand that. Thank you for that. I'm now asking you directly, is it your affirmative case that Mr McGuigan, your client, did not know that the Obeids were involved in the joint venture?

MR BARRY: Not initially.

10 THE COMMISSIONER: Well, I'm sure they later became known, they were aware of that.

MR BARRY: Yes.

THE COMMISSIONER: But at the time they were contemplating taking over White Energy did they know or didn't they know?

MR BARRY: Oh, by that stage they were aware of that.

20 THE COMMISSIONER: All right.

MR BARRY: I'm asking this witness about the early contact and I'm suggesting to this witness that he did not, that he represented to Mr McGuigan that he was acting on his own behalf and that he had taken over the interests that Monaro Mining had previously had in pursuing, in pursuing the Exploration Licence for Mount Penny.

THE COMMISSIONER: Yes.

30 MR BARRY: That's what I'm putting to him.

THE COMMISSIONER: Thank you for that information, you may proceed with that.

MR BARRY: Do you accept that that is what you did?---No.

40 And then when do you say there was then any - I withdraw that. You haven't answered my question. When do you say was the first contact you had with Mr John McGuigan?---I think I did answer that but anyway towards the end of May, early, early June.

THE COMMISSIONER: 2009?---Yes, with Moses.

MR BARRY: When you had that contact did you know that the Department of Primary Industries was going to require that Monaro Mining to be able to proceed with its bid would have to come up with the amount of money that it offered by way of financial contributions?---Yes.

And did you know that it was unable to do so?---I knew that Monaro wanted to withdraw so it's a moot point.

Did you - - ?---I wasn't trying to raise money for Monaro any more.

My question is did you know that Monaro could not meet its commitments and therefore it had an expiration of interest which was invalid and ineffective?

10 THE COMMISSIONER: Those are two questions. You better put them separately, Mr Barry.

MR BARRY: Yeah. Did you know that Monaro, that Monaro Mining was incapable of meeting the commitments that it had made in its Expression of Interest document?---(No Audible Reply)

THE COMMISSIONER: Mr Brook, before you answer the question that Mr Barry is asking you concerns the solvency or otherwise of Monaro so he's really asking you whether Monaro had the wherewithal, whether you
20 knew that Monaro did not have the wherewithal to meet its promised commitments in regard to the Exploration Licence?---That is correct.

MR BARRY: And did you, that there had been meetings with representatives of Monaro and representatives of the Department of Primary Industries in relation to that very matter?

THE COMMISSIONER: No, that's not right. There had been meetings with the representatives of the Department of Primary Industry and Monaro about the meaning of a phrase in the bid.
30

MR BARRY: May I put it to you this way. Did you know that meetings of the Department, that members of the Department of Primary Industries had met with Monaro Mining for the purposes of discussing the wording in their bid in relation to the financial obligations that they were undertaking?---No.

You never heard that there'd been a meeting for example with Mr Mullard around about 21 May of 2009?---Yes.

And you note that this document I showed you is dated 22 May, 2009, the
40 very following day?---Yes.

You of course knew the state of the Monaro balance sheet?---It's a public company, sir.

Yes, that's my, that's my point.

THE COMMISSIONER: Your answer is yes, isn't it?---Yes, sir.

MR BARRY: I think you knew that its assets were about \$8,000 US?---I can't recollect their balance sheet at the time.

But their balance sheet was a long way short of \$52 million wasn't it?---The intention was to bring in a JV partner.

But what I want to suggest to you is this, is that your understanding was they could get a licence and then after they got a licence they could then arrange the funding?---That was more likely.

10

Sorry, was that your understanding what the position was?---Yes.

And then did you become aware that that was not in fact the case? In fact, they were going to be required to pay the \$52 million within 30 days?---That did come as a surprise to me.

And Mr Brook it may be obvious but I take it that you work on some sort of commission basis, do you? You take a percentage?---Yes.

20 You take a percentage of the deal?---That's right.

And you were working on this Monaro deal for some time, weren't you?---Yes.

How much did it owe you?---A lot.

Tell me just roughly?

30 THE COMMISSIONER: Well is it quantifiable?---I don't understand the question.

Is it quantifiable?

MR BARRY: What did you stand to gain if the Monaro proposal had gone through in dollar terms?---My agreement with Monaro initially - - -

Just direct your mind to my question, I just want dollars please, roughly?

40 THE COMMISSIONER: Well he might not be, he might - - -?---Are you referring to me consulting to Monaro or taking over the bid?

MR BARRY: Let's assume that the original proposal that you say you discussed with Moses Obeid had gone through, that Monaro Mining had been awarded the licence and that the proposal would have then materialised in the way that you had hoped. If that had happened what would you have expected to earn from that?---A percentage of the, of the deal.

And in what, and in dollar terms how much?---Well in actual fact it ended, ended up being three per cent.

Three per cent of the deal which you thought was worth how much?---You couldn't say, sir, because the value hadn't been established.

Let's not beat around the bush, it was something – it would've been in the order of several millions of dollars, wasn't it?---I was paid approximately 2 million.

10

No, but you stood to gain much more than \$2 million if the Monaro transaction had proceeded, didn't you?---Only if Cascade were involved.

No, listen to the question. If the Monaro transaction had proceeded, that is if they had proceeded with the original proposal, you stood to gain many millions of dollars out of the deal, did you not?---I could not predict that because my agreement was a retainer and options in the company.

20

And what did you think they may be worth?---I am trying – I could, sorry, Commissioner.

THE COMMISSIONER: Just take your time, Mr Brook. What they were worth I take it would depend upon the joint venture partner coming in and what was – what happened with the exploration?---Let me explain it, thank you, Commissioner. I had a mandate with Monaro. The mandate mentioned that upon success of a deal or raising finance, I would be issued options in Monaro. Now the activity of Monaro's share price I did not know or foresee.

30

MR BARRY: You see you - - -

THE COMMISSIONER: It's pretty obvious, Mr Barry.

MR BARRY: You do not dispute, do you, that you fraudulently represented to Mr McGuigan the true state of affairs as you knew them?---I deny that.

MR TYNDALL: I object, I object, what does that mean?

40

THE COMMISSIONER: No, you can't just put it that way, Mr Barry. You better put it, you better state precisely what the false misrepresentation was.

MR BARRY: Did you make representations to the effect that Monaro was in fact a, a, a, a party which could obtain the Exploration Licence?---No.

Did you represent that you were dealing with a company that had other options if Cascade Coal did not enter into a joint venture with them?---No.

Were there any other potential parties with whom you dealt in relation to the Mount Penny tenement other than Cascade Coal once you became aware that Monaro Mining was not going to proceed?---No.

Why did you meet with the representatives of Cascade Coal?---Moses Obeid invited me to.

10 What was your interest?---I had been working on this deal for so long, I was part of the process to have Monaro withdraw and therefore I was involved and the agreement that had been in broad terms struck up between Moses and Cascade, Moses wanted me to revise.

I suggest to you that the true position is that you saw evaporating before your very eyes a very substantial financial benefit to you that was no longer going to materialise once you became aware that Monaro Mining was going to be unable to continue with its proposal in relation to Mount Penny. That's what I'm putting to you as a positive case. Do you agree with that proposition?---Would you repeat it one more, one more time, please.

20 When did you have your acquired brain injury?---In 2010.

So that was- -?---The 8th.

That was many, that was years after this, these particular events had occurred?---Yes.

And as a result of that acquired brain injury, do you have memory problems?---Sometimes.

30 Do you have memory problems in relation to the transactions that were occurring around about this time, that is the period between 19 May, 2009 and say the first week or so of June of 2009?---Yes, I do, they were very very important.

And I take it that when you gave evidence to this Commission at private hearing, certain positive propositions were put to you?---Well, I was to be included as part of the Obeid JV with Cascade.

40 And the positive propositions that were put to you I want to suggest to you is what you are relying upon rather than any independent recollection.

Do you have instructions for this, Mr Barry?

MR BARRY: Yes, the very nature of the witness's evidence.

THE COMMISSIONER: Well, I won't allow the question. Mr Watson, I suggest that you tender the pages of the CE which were questioned but I'm

afraid – and those will become public, but that is pure speculation on your part Mr Barry and you have no foundation for those questions.

MR BARRY: What I'm putting to you is that because of your acquired brain injury and the problems that it causes your recollection, that what you have engaged in in fact is reconstruction. That's what I'm putting to you? ---I deny that.

10 And I'm suggesting to you that the reconstruction is based upon material that you have been provided to which has been suggested to you is a true representation of the facts?---I deny that.

MR TYNDALL: Well, I object, I object. Commissioner, there's a number of propositions that I've let go that clearly Mr Barry can't make, one of them is that he, that Mr Brook was somehow leading the charge into Cascade, that would, that would reasonably presuppose that Moses Obeid wasn't the connecting party to Mr Barry's client. And I haven't heard him put that position to the Commission. Mr Brook clearly put before you in no uncertain terms that Mr Obeid coordinated all matters to do with the linkage
20 between Mr Brook and Mr McGuigan.

THE COMMISSIONER: Mr Tyndall, the question is, the question that Mr Barry's putting now is based on the proposition that the Commission put certain facts to the witness and that he is simply regurgitating the facts that the committee, that the Commission put to him. I won't allow that. I told Mr Barry that.

MR TYNDALL: And the- - -

30 THE COMMISSIONER: There's no foundation for that.

MR TYNDALL: But not only that, he, this witness denied there was a reconstruction so any further question on that - - -

THE COMMISSIONER: Yes, I, I understand that.

MR TYNDALL: Thank you.

THE COMMISSIONER: Mr Barry.
40

MR BARRY: You didn't give any evidence about the Jane Group, did you?

THE COMMISSIONER: Are you making an affirmative case now? Is this part of your case, Mr Barry?

MR BARRY: Yes.

THE COMMISSIONER: What is your case on this part?

MR BARRY: That, that the witness has so far said that the only dealings that he was having in relation to the proposal for Mt Penny was dealings involving the Monaro Group whereas if one looks at Exhibit J-18 at page 897 one sees that there was an email dealing directly with arrangements that were being made with the Jane Group, various Chinese groups and someone called Misako.

10 THE COMMISSIONER: You better find – Mr Barry, you have been doing this for so many years. You know that in fairness you first have to establish whether Mr Brook knows about these matters you are putting to him. I don't understand why you are now departing from such an obvious rule.

MR BARRY: Mr Brook, did you have dealings with the Jane Group in relation to the Mount Penny tenement?---I did.

Did you have dealings with various Chinese groups in relation to the Mount Penny tenement?---I did.

20 Did you have dealings with a company called Misako in relation - - -

MR WATSON: It's Misako, it's (not transcribable).

MR BARRY: Well it's described as either Misako or a company with a similar sounding name?---I don't recall.

30 And was the purpose of those dealings to see if you could find another coal mining company that was prepared to participate in the arrangements that you had previously had with Monaro Mining?---All of those negotiations, meetings with Jane, Chinese companies – what – was when Monaro were still in the hunt for finance.

THE COMMISSIONER: Yes, you, you - - -?---After that it was only Cascade.

MR BARRY: Well will you accept from me that the, that the hunt as you called it was something that was taking place during the week - - -?---The what, sorry, sir? I don't - - -

40 Following the week commencing Monday 25 May 2009?---I didn't hear you properly, sir, I'm sorry.

Will you accept that your so called hunt for finance was something that you were engaged in during the week commencing 25 May?

MR WATSON: I think, I think to be fair this (not transcribable) Commissioner.

THE COMMISSIONER: Yes, are you, are you putting to the witness that this is a fact that you're going to establish, Mr Barry?

MR BARRY: Yes, that's – well – I want the witness to be shown the document.

THE COMMISSIONER: That's not what the, that's not what the letter says.

10 MR BARRY: In the second paragraph - - -?---I don't even know what he - - -

THE COMMISSIONER: It's not what, it's not – does – says nothing about Mr Brook's participation in this.

MR BARRY: It is a, I'm looking at the last sentence of the fourth paragraph.

20 THE COMMISSIONER: I know you're looking at that. Mr Brook is not a party to that, it's not said that he's seen the letter before, it's a letter from Mr Rampe to Mr Malone, an email. If you want to question the witness about that, you first have to establish a basis for it.

MR BARRY: Mr Brook, you have already conceded that you, that you had dealings with these particular parties that I have identified from this document, haven't you?---I'd like to see the letter you're referring to.

It's exhibit J-18?---I don't have it, do I?

30 Page 897.

THE COMMISSIONER: Yes, he, just show that to – you've got the bundle in front - - -?---Sorry, is that it?

897, there's a - - -?---Please give me a moment to read it if you don't mind.

40 Yes. Mr Barry, there's an enormous difference between conducting the negotiations at one time and the proposition that you are putting to him and you can't put that proposition to him as if he's committed some kind of act of dishonesty until you've established that he knew of these matters at that time.

MR BARRY: I am proposing to put to him that he falsely represented what he knew to be the true state of affairs when he made representations to Mr McGuigan.

THE COMMISSIONER: You have put it and I will allow you to put that. You have put it and I don't know what you're doing now quite frankly.

MR BARRY: Mr Brook, do you, do you conceded that you falsely represented the true state of affairs to representatives of Cascade Coal?

MR TYNDALL: Well, I object.

THE WITNESS: No.

MR TYNDALL: I object.

10

THE COMMISSIONER: He's already answered the question. He's already denied that. Mr Barry, how long are you going to be?

MR BARRY: I'll be, I'll be some time.

THE COMMISSIONER: No, you won't. You can have 10 minutes, Mr Barry.

20

MR BARRY: I want to suggest to you that what happened was that when you became aware that Monaro was not going to proceed and you became aware that as a result of that you were going to lose the advantage, the financial advantage of the deal that you had been working on, you were desperate to find somebody else to take the place of Monaro. Is that correct?---I'd lost all hope.

You hadn't lost all hope?---I had.

30

You approached people from Cascade Coal didn't you?---I did not. Moses Obeid did.

And I want to suggest to you that what you then represented falsely was that if they did not engage in a joint venture that there would be other people who would be prepared to do so?---No.

MR TYNDALL: I object. Commissioner, he didn't approach them and so therefore he couldn't have then falsely represented anything. I mean this, this has been - - -

40

THE COMMISSIONER: He's answered the question.

MR BARRY: Did you represent that Buffalo Resources was your company?---No.

Who, who did you say owned it?---I didn't say it was an Obeid entity.

Did you ever advise Mr McGuigan that Buffalo Resources was a company with which the Obeids had an interest?---I didn't have to because Moses had already told him.

I'm asking you whether you ever said anything?---I never did.

No. So what are you, your, what you're relying upon I take it is what Mr Moses Obeid has said to you from time to time, not your direct, not your own personal knowledge?---That's not true, sir. I met Mr McGuigan.

But you never, and I'm suggesting to you - - -

10 THE COMMISSIONER: Did you meet - sorry, excuse me. Did you meet Mr McGuigan in Moses Obeid's company?---Only in his company.

Yes. Well, that, that's the basis of it, Mr Barry.

MR BARRY: And are you aware that there was created a document in relation to the proposal for the acquisition of the land at the same time as a joint venture proposal was entered into?---Not at the same time, no.

20 Were you a party to any such discussion?---On the land?

Yes?---No.

Were you a party to any such discussion on or about 1 June, 2009?---On the land, no.

So is your evidence that at no stage at any time when you having any discussions involving Mr John McGuigan that there was any mention of the land?

30 MR WATSON: That's not what he said.

THE COMMISSIONER: That's not what he said. I won't allow that question.

MR BARRY: What discussions in relation to the land were you present at? ---During the meetings with Mr McGuigan the ratio of 75/25 was contentious based on the Obeids multiple of four times. Mr McGuigan thought the Obeids were being greedy. That is all.

40 And do you dispute that during the course of any such discussions that the topic of the joint venture formed part and parcel of the same arrangement as was being made in relation to the land?

THE COMMISSIONER: That's too confusing, I won't allow that.

MR BARRY: What I'm putting to you is, to your knowledge, the power that the Obeids had to secure the land was a matter which was crucial to the consideration for the joint venture arrangement?---You'd have to ask them.

You don't believe that to be the case yourself?---I was not a party to the negotiations of the JV, only the finalisation of the, of the document – I'm so sorry, Commissioner.

THE COMMISSIONER: Yes, that's all right. I think you'd better just start again, start your answer again from the beginning and take it slowly?
---I beg your pardon.

10 THE COMMISSIONER: Take it slowly. Have a, have a sip of water and take your time.

THE WITNESS: I am trying to answer your question, Mr Barry. I was not involved in the structuring of the deal between Cascade and the Obeids on the property front or on the mining front other than on the mining front JV reviewing the initial Buffalo/Cascade document.

MR BARRY: And would I be right in thinking that whatever information you have acquired about that particular transaction you have acquired from
20 what you were told by Moses Obeid?---No, because I was in the meeting with Mr McGuigan and Moses.

What was the original percentage in terms of the joint venture, was it 25 per cent or some different figure?---25/75.

Was it ever any different from that?---That's the only ratio I was ever told.

Yes, that's the questions.

30 THE COMMISSIONER: Yes, the Commission will adjourn until 10 o'clock.

THE WITNESS WITHDREW

[4.08pm]

AT 4.08pm THE MATTER WAS ADJOURNED ACCORDINGLY

[4.08pm]

MR WATSON: Do you remember yesterday, Mr Brook, I asked you about a fellow, Barry Yin?---Yes, sir.

And Barry Yin is a mining finance man. Is that right?---He's a broker of sorts.

10 And he is Chinese?---I presume so.

And he certainly has connections with China?---Absolutely.

And you met with him many times about trying to arrange finance for him, from him or through him- - ?---Mmm.

- - -for the Mount Penny and related matters?---Correct.

20 Now, what I want to suggest to you is that you were meeting with Mr Yin in the period after September 2008. Does that sound right?---That does sound right.

And do you remember meeting with Mr Yin in a coffee shop with one of the Obeid boys?---I do not recall that.

Well, Mr Yin says that he thinks that he met with an Obeid boy, he's not absolutely certain about the name, but he used the name Eddie. Did you ever deal with Eddie Obeid- - ?---No.

30 - - -Junior?---Oh, sorry, no.

But Mr Yin was confused between that and other information of this meeting in a coffee lounge somewhere near Monaro?---Right.

He says that he sat down with you and this young fellow, the young fellow was either saying himself or you were saying on his behalf that the young fellow's father was in the Legislative Council. Do you remember a conversation like that?---I do not recall that.

40 And when I say young fellow, Mr Yin said about 30 to 35 years old and he remembered him as having what he described as a Lebanese face and short-cut hair. Any of that help you?---Unfortunately, no, sir. I don't recall the meeting at all.

See, Mr Yin says that he sat down and it explained that this third person, a young man, was a person whose father was in the Legislative Council and that what you said was that between the lot of you, you had a very good friendship with Ian Macdonald and also with this fellow's father and they all

worked together and that if those two got together, the mining licence would be granted. Did you- -?---No, sir.

Well, Mr Yin went on and said that in context you had said that because of these connections, and one of them, sorry, I withdraw that. Mr Yin went on and said that because of these connections you, Mr Brook, had said that you could almost be certain you can get Spur Hill and Mount Penny?---I do not believe - - -

10 All right?--- - - -that happened.

Well, it went on so that Mr Yin, who seemed not to have a tremendous knowledge of Australian or New South Wales politics, said that the person with whom you said you had a very good relationship was the Mining Minister, Ian Macdonald?---Sir, I have said on countless occasions I've met the man once briefly. It's incorrect.

But I'm, what I'm putting to you is what Mr Yin has come to us and said?
---Well, I deny that, sir.

20

Thank you, Commissioner.

THE COMMISSIONER: Yes. Mr Hale, I see no reason for, no need for you to question on this evidence?

MR HALE: No, although it does flow into the one question I was in any event going to, going to put. It might be convenient to put it now, which is, which is simply the question of meeting Mr Macdonald and whether Mr Macdonald- - -

30

THE COMMISSIONER: Yes, proceed.

MR HALE: Yes. Yesterday you said that there was a lunch organised at Lehman Brothers which I think was in July 2008, which Mr Macdonald attended?---That's correct, sir.

Could I suggest to you that although Mr Macdonald might have been invited, he did not attend, never, never went to Lehman Brothers?
---Sir, I am quite certain he was there and I'm quite certain I shook his hand
40 at the start.

Yeah?---And I shook his hand at the end and that was it.

All right. Thank you.

THE COMMISSIONER: Yes, thank you. Mr Stitt, do you wish to answer – ask any questions?

MR STITT: Yes, with leave.

MR WATSON: I should say Mr Stitt has raised some matters with me, Commissioner, beforehand and I accept that the questions he wishes to ask are relevant. He's shown me some documents.

MR STITT: Mr Brook, my name's Robert Stitt and I appear in the interests of Richard Poole, the investment banker. I think you know Richard Poole?
---I do, sir.

10

Mr Brook, you had some discussions with Richard Poole in 2007, did you not?---That's correct. We had lunch at Intermezzo at the Western.

And at that time you were the senior vice president of the Asia Special Situations Group of Lehman Brothers?---That is correct, sir.

You had actually had a promotion after you first joined Lehman Brothers to that position, did you not?---One could call it a promotion.

20

And you actually made a presentation to Richard Poole about your function and Lehman Brothers function so far as financial transactions were concerned, did you not?---Well that's why we were meeting, sir, yes.

And the presentation that you made was in the form of a document and you sent it to Mr Poole on 4 December 2007 setting out the role and function that you could perform acting as Lehman Brothers?---I would like to see a copy of that, sir, if that's possible.

30

Well we actually have 15 copies and I'm happy to show you, but let me just suggest this and you can check it in a moment, the document sets out the Asia Special Situations Group and the way in which it functions and who Lehman Brothers are. Let me suggest to you that it says, "We are principal investors which enables us to respond and transact quickly." Do you recall that?---Yes, sir.

And also the modest boast, "Nothing is too big for us." Do you remember that?---Yes, sir, I do.

40

And what you said to Mr Poole was that in any, and perhaps I should now hand that document to you with 15 copies – if I may proceed, your Honour?

THE COMMISSIONER: Yes.

MR STITT: What you said in the context of that presentation was that any transaction that you would be involved in, you would be acting as a principal. Isn't that so?---That was our mandate, sir.

Well it was your mandate - - -?---Yes.

- - - because it was a very successful way for Lehman Brothers to operate, was it not?---Absolutely.

And the reason that it was a successful way to operate was because you as Lehman Brothers in any transaction would act as principal and gain control over the transaction?---Absolutely, that was the intention.

10 And by gaining control, you would be able not only to earn a commission but also to get a part of the action?---Absolutely.

That part of the action could take the form of options, could it not?---Any type of derivative, sir, yes.

And, and I don't want to over emphasise the point but it was that way that permitted Lehman Brothers to make vast sums of money because they did control the action?---Sir, that is - - -

20 In their financial transactions, I'm talking about?---That is correct.

Now when you were first spoken to by Moses Obeid he identified you say a company Monaro or Monaro?---Yes, he eventually.

And I'm not clear, you say at one point in your statement that he wrote the name on the back of a beer coaster and at another point you say he handed you a sheet. How did he convey to you the name Monaro or Monaro?---It was on a list of names which has been tendered to the Commission, sir.

30 So he didn't write it on the back of a beer coaster?---I, I cannot recall a sheet of paper or a beer coaster but it was a list of names.

Well, if I can move on. What you then did was you, with your skill investigated Monaro which at that stage of course was a public company? ---Yes.

And you satisfied yourself that Monaro's balance sheet was extremely weak?---Yes.

40 And you satisfied yourself that Monaro was financially vulnerable?---Well, that was up to the decision of their directors, sir.

No, I'm talking about - - -?---Yes.

- - - your assessment?---Yes.

Because you are in truth a very skilled investment banker aren't you? Without any false modesty?---One would presume, sir, yes.

Yes. Well, I'm treating you as a very skilled investment banker and giving you that respect?---Thank you, sir.

And the analysis that you performed on Monaro convinced you that it was a vehicle which was capable of meeting the test that you were posing for yourself as to whether or not you'd enter into this transaction with Moses Obeid?---It was the nature of the transaction that attracted me to Monaro.

10 But the nature of the transaction so far as Monaro was concerned was that it was financially vulnerable but it also had mining skills and techniques - - -

THE COMMISSIONER: Coalminer.

MR STITT: - - -amongst its management?

THE COMMISSIONER: Yes, Coalminer.

MR STITT: It was coalminer?---It was not a coalminer, Commissioner.

20 THE COMMISSIONER: You're quite right but it had mining - - -?

MR STITT: It was a uranium miner in fact wasn't it?---Well, uranium explorer actually.

But once you knew that it was financially vulnerable with your negotiating skills that put you in a strong position to deal with the management of Monaro, did it not?---Yes, sir.

30 And that strong position you capitalised on and I'm not suggesting there's anything wrong with making a profit but that strong position you capitalised on by entering into an arrangement with Monaro whereby you would act for them?---That was my job, sir.

After Lehman Brothers failed you sent an email to Richard Poole, did you not? And to refresh your recollection - - -?---Do you want to point me to it, sir?

Yes. You sent him an email on the 16 December 2008 advising him of the fact that you were retrenched and in effect seeking his support?

40 THE COMMISSIONER: Can you refer to that email, Mr - where it is? ---Well, sir, that's fine.

MR STITT: I'm sorry, your Honour, I, I just, at the moment I, I didn't think it was very important it was just a - - -

THE COMMISSIONER: No, no. Understand.

THE WITNESS: Sir, that's fine. Of course upon the collapse of Lehman I informed people I knew.

MR STITT: And respected?---Sure, of course.

And you simply advised him that you had been retrenched or whatever word you used and you sought his support if he could give it to you?---I was on very friendly terms with Mr Poole.

10 And I'm not suggesting anything to the contrary?---Mmm.

But you didn't actually see Mr Poole or have any other contact with him until Monday, 1 June, 2009, did you?---We had lunch at Intermezzo as we previously confirmed, very general conversation, nothing came of it, I think we met at his office once about a telco deal, nothing came of that, and then the next time was around about early June at Arthur Phillip.

Well, I want to put a couple of propositions to you, Mr Brook?---Sure.

20 You had a meeting you said I think in York Street in May at which Mr McGuigan and others were present?---Correct.

And you- -?---Well, it was late May, sir, or early June.

No, no, I'm suggesting to you that it was in May?---Okay.

And at that meeting, Mr Obeid was present?

THE COMMISSIONER: Which one?

30

MR STITT: Mr Moses Obeid was present?---That is correct, sir, yes.

And you were there, I think you told us yesterday, to look after the interests of Mr Obeid?---That's correct.

The interests of Mr Obeid that you were looking after were those interests that related to the landholding in the Bylong Valley that Mr Obeid referred to?---No, sir.

40 The interests I suggest were that the landholders had formed an association or a loose arrangement amongst themselves?---That's correct.

And you recognised that that arrangement by the landholders, landowners, was critical to furthering this mining development?---That was the genesis of the entire deal for me, sir.

Precisely, precisely, it was the genesis because it was critical to the success of this mining transaction, was it not?---I believe so, sir, yes.

Yes. Well, it was pretty obvious, wasn't it?---It is in every mining transaction.

Yes. No land, no mine?---It's pretty hard without it.

And that was your process of reasoning when you had the conversations and meetings that you've told us about?---Correct.

10 THE COMMISSIONER: You don't have to have the land to mine, Mr Brook, you can just have an agreement giving the mining company access to the land?---I understand that, Commissioner, as well.

MR STITT: But you understood that the landholders that had got together, including Mr Moses Obeid that was dealing with you, were acting in concert?---Yes, sir.

20 And did you believe that consistent with your normal negotiating skill, that you had control of that landowning group?---Sir, I had nothing to do, I did not participate in the landholding element of the deal.

But I want to come back to the two meetings in May that you had. Those meetings you attended to protect the interests you say of Moses Obeid and were those meetings for the purpose of reaching an agreement with the landowners?---The landowners, there are two agreements.

Well, no, I'm not asking at this stage, I'm asking you about the meetings, you see?---Well, the landowners- - -

30 Do you recall the meetings?---I recall the meetings.

And at those meetings I suggest to you that there was discussion about the way in which this process should proceed. I hasten to add Mr Poole was not at either of those meetings, was he?---That's correct.

So there two meetings that you had in May, Poole wasn't present but there was discussion about the way this transaction should progress, was there not?---Not regarding the land, regarding the mining JV.

40 Well at the second meeting which might've been on Sunday 31 May there was in fact tabled, was there not, a document?

THE COMMISSIONER: I think that's two questions, Mr Stitt.

MR STITT: I'm sorry.

THE COMMISSIONER: You better establish whether he agrees that the meeting was on 31 May.

MR STITT: Yes, your - - -?---I'd like to see the document, sir.

Well I'll show it to you in a moment but I want to just put a sequence of events to you, you see? There was this first meeting and I suggest that at that meeting there was discussion about the way this mining proposal should proceed and at the second meeting there was tabled a document. And do you agree with those propositions?---I cannot recall exactly sir because I can't see the document.

10

Well I don't want you to be under any disadvantage. Let me show you this document, and again I've got 15 copies and I've showed it to my learned friend, your Honour.

THE COMMISSIONER: Well before we come to that, Mr Stitt, do you want to tender the first document to which you referred Mr Brook?

MR STITT: Well I was a bit reluctant to clutter up the - - -

20 THE COMMISSIONER: I don't think it's necessary.

MR STITT: I didn't think it was, your Honour.

THE COMMISSIONER: No.

MR STITT: But I - - -

THE COMMISSIONER: Yes, thank you?---Thank you.

30 MR STITT: Mr Brook, I want you to look at this document. It's headed key principals?---Yes, sir.

Have you seen that document before?---I do not think so, no.

You see - - -

THE COMMISSIONER: What is the provenance of this document, Mr Stitt?

40 MR STITT: Your Honour, it comes out of the Arthur Phillip server as I understand it and it was obtained in – from that source by the ICAC investigators, but when I spoke to my learned friend and showed him the document he wasn't sure that he had seen it, your Honour, but it is actually out of Arthur Phillip - - -

THE COMMISSIONER: Server?

MR STITT: - - - server.

THE COMMISSIONER: Yes, thank you. And I might've interrupted your question and I'm sorry.

MR STITT: I – Mr Brook, have you had a chance to look at that document?---Yes, sir, I have.

Well was that a document which was tabled or present at the second meeting between you, Mr Obeid, Mr John McGuigan and I think perhaps Mr James McGuigan?---I don't believe so.

THE COMMISSIONER: Are you the author of this document, Mr Brook? ---No, sir.

MR STITT: I tender that document.

THE COMMISSIONER: Do you have it marked?

MR WATSON: I'll tender it.

THE COMMISSIONER: Well a document headed key principles emanating from Arthur Phillips server is Exhibit J-41.

#EXHIBIT J-41 - DOCUMENT ENTITLED "KEY PRINCIPLES FROM ARTHUR PHILLIP SERVER" AND EMAIL DATED 1 JUNE 2009 FROM JAMES MCGUIGAN TO JOHN MCGUIGAN

MR STITT: And, your Honour, with that document this email should go because it was actually attached to that document and I've got 15 copies of the email but it's not a document that I need to show to this witness.

THE COMMISSIONER: And Mr Watson has seen it?

MR WATSON: I haven't seen this, but - - -?---Mr Watson, could I see it, please?

Yes.

MR STITT: And I don't suggest for a moment that Mr Brook would ever have seen this document.

THE COMMISSIONER: May we show it to Mr Brook?

MR STITT: If your Honour wishes to, yes.

THE COMMISSIONER: He wants to see it so show it to him?---Thank you, Commissioner. Thank you, sir. Thank you. I've never seen it before, sir.

MR STITT: Well, I never suggested that you did?---No, but I'm confirming that as well.

But what- - -

10 THE COMMISSIONER: Sorry, I'd better, sorry, Mr Stitt.

MR STITT: I'm so sorry.

THE COMMISSIONER: I'd better just, I'd just better make this clear. J-41 comprises the Key Principles document from the Arthur Phillip server and an email from John McGuigan sent 1 June, 2009, I'm not sure to whom it's sent, Mr Stitt, can you help me there?

20 MR STITT: Yes, it's sent from John McGuigan to James McGuigan.

THE COMMISSIONER: It says, "cc James McGuigan." Does that mean that it was sent to him?

MR STITT: I believe so. Well, that's my understanding.

THE COMMISSIONER: Yes. An email- - -

MR WATSON: Could I suggest that they be made one exhibit because- - -

30 THE COMMISSIONER: Yes, I am doing.

MR WATSON: Yes.

MR STITT: That's my fault, I should have tendered them together.

THE COMMISSIONER: No, no. The email dated 1 June, 2009 from John McGuigan to James McGuigan is part of Exhibit J-41.

40 MR STITT: As Your Honour pleases. Mr Brook, the only thing that I wish to draw your attention to in the email is the description attachments, Key Principles, which is the name of the document, and the date, 31 May, 2009 doc, document. Have you got- - -?---I'm just getting it back sir. One moment. Thanks. So you're saying this was the attachment?

No, no.

THE COMMISSIONER: No, no. You're not being asked a question, you're just being shown that the email, and Mr Stitt says that according to

the email, the Key Principles document was attached to it. Do you notice that?---I notice that, sir, yes.

MR STITT: And the attachment is identified as a document dated 31 May, 2009, and I am suggesting to you that that was the date that you had your meeting with John McGuigan, James McGuigan, Moses Obeid and yourself. Do you agree with that?---I think that is probably right, sir, yes.

And that meeting was held, was it not, in Kent Street?---Yes, sir.

10

Indeed it was held at 201 Kent Street in the Grafton Bond building, was it? ---That sounds correct sir, yes.

And, Mr Brook, I suggest that that document contains- - -

THE COMMISSIONER: The principles document?

MR STITT: Yes, the Key Principles, I'll start again, that's not elegant. Mr Brook, is this correct, that at 31 May, which was a Sunday, a meeting was held where the bones of the agreement were thrashed out on that Sunday?

20

THE COMMISSIONER: Which agreement?

MR STITT: The agreement relating to the mining tenement and relating to the landowning, was that the meeting at which- - -

THE COMMISSIONER: Sorry.

MR STITT: - - -it was thrashed out?

30

THE COMMISSIONER: Mr Stitt, are you saying there was one agreement relating to both the land and the mining?

MR STITT: Yes, Your Honour. And, and indeed, if you look at the document, and I don't want to take up time at this stage, but if you look at the document it speaks really clearly for itself. But I need to put this to the witness in fairness to him.

THE COMMISSIONER: Yes.

40

MR STITT: Mr Brook, if you need to look at the document again headed Key Principles, please do so, but do you agree that that was the document which was discussed – oh, no, I withdraw that. Do you agree that that document contains the principles and concepts which were discussed at that meeting on Sunday, 31 May, 2009?

THE COMMISSIONER: You'd better read it carefully. Take your time and read it there?---Thank you, Commissioner, I will.

THE WITNESS: Sir, it was a long time ago but I would agree that this document was most probably on the table at that meeting.

THE COMMISSIONER: Do you remember it?---Not, not vividly, sir, but it makes sense - - -

Do you remember it vaguely?---Yes.

10 Do you remember the actual document?---Not the actual document but it - if, if I had to make a call on it, sir, I'd say it was on the table.

Well, I don't want you to make a call on it I just want you to please tell us what you remember. There are two things here, Mr Brook, one is the proposition that at that meeting on 31 May the issues which are the subject of this document entitled 'Key Principals' J-41 were discussed. The second issue is was the document there. It's important that you distinguish between those two. Now the first question which I think you've answered, Mr Stitt, is that yes, the document does reflect I presume in broad terms the issues
20 that were discussed at that meeting. Is that right?---Yes, sir.

All right. Now the second point is was the document on the table at that meeting?---I would have to agree with that, sir, yes.

MR STITT: And, Mr Brook, the reason that you agree with that is because it's consistent with you performing and fulfilling your role and duty as protecting the interests of Moses Obeid in respect of this transaction in so far as you could?---As far as the mining JB, yes.

30 And may we take it that there was negotiation and discussion which ultimately led to agreement?

THE COMMISSIONER: On what?

MR STITT: I'm sorry. On the principals that are set forth in that document?---Yes, sir.

THE COMMISSIONER: I just want to make - to, to find out one thing for you to make quite clear please, Mr Brook, did you represent Mr Moses
40 Obeid or Monaro or anybody in connection with the sale and purchase of the land which eventually became the mining tenement Mount Penny?---Not in any way, Commissioner.

MR STITT: Mr Brook, may I put this proposition to you, on the following day that is to say on Monday, the 1st of June, 2009 in the morning of that day you had a meeting with Richard Poole at Arthur Phillip office and to refresh your recollection it was on Level 33, 52 Martin Place, Sydney and you met in the small meeting room of those offices?---It's possible, sir.

Well, I'm suggesting to you, you understand that in fact that happened. Do you understand that?---I - - -

I'm not saying it's possible I'm saying it did happen.

THE COMMISSIONER: Do you remember that that is the case?---I do not recall that meeting but I'm open to you refreshing my memory, sir.

10 MR STITT: Well, I would like to try if I could, Mr Brook. Let me say that at that meeting in the small meeting room there was only you and Richard Poole present and let me suggest to you that you said this, words to the following effect, "I have been working with a public company on a number of coal deals and it has bid for some of the 11 coal release areas." Do you remember saying that to Mr - - -?---No.

- - - Poole?---I do not.

20 But you had been working with a public company in respect of these relevant 11 coal release areas, had you not?---I think.

You have to answer?---Yes, yes.

Nodding doesn't go down?---Yes.

So that statement that I'm suggesting you said to him was perfectly true, wasn't it?---I do not agree that I said that in that meeting, sir.

30 THE COMMISSIONER: The - - -

MR STITT: But the statement that I read to you is true in fact, is it not? And I'll read it to you again?---I was working with Monaro.

But I'm - - -?---Everybody knows that, sir.

40 Well I'm suggesting this is what was said at the meeting. I'm not suggesting that everybody knew it. I'm suggesting to you as forcefully as I can that at that meeting you said to Richard Poole, "I have been working with a public company on a number of coal deals and it has bid for some of the 11 coal release areas", and you've just agreed with me that that is – as a statement of fact – accurate.

THE COMMISSIONER: And therefore what's the question?

MR STITT: Let me go on – I think that's called bowled middle stump. Then you went on to say this, "I have also been able to secure the rights to deal with most of the land in the Mount Penny area." Do you remember saying that?---I do not remember saying that.

But you went on, I suggest, to say this, "The public company does not have the money for the bid, they are getting cold feet and I am planning to take over their position."?---Sir, I, I deny this.

Well whether you deny it or not I want to put it to you and suggest that as a statement of fact this proposition is true. I'll read it to you again.

10 THE COMMISSIONER: I'm not sure whether Mr Brook understands the difference between him saying it and the statement of fact.

MR TYNDALL: Commissioner, could I also add that Mr Brook has already indicated that he doesn't remember being at that meeting.

THE COMMISSIONER: Yes, I think it's all a bit futile, Mr Stitt.

MR TYNDALL: I think, so - - -

20 THE COMMISSIONER: You've put your case, it's denied.

MR STITT: Well I haven't finished putting it yet.

THE COMMISSIONER: Well I - - -

MR STITT: But I need to put this, because it's part of my case.

THE COMMISSIONER: Yes, yes. Now I - - -

30 MR STITT: I understand - - -

THE COMMISSIONER: I'm not stopping you.

MR STITT: Thank you.

THE COMMISSIONER: But what I'm suggesting is the assertion that as a statement of fact it's true is not particularly helpful because that has been established, we all know that, so it's a rhetorical point. And, but if you put your case, that will be valuable.

40 MR STITT: Thank you. You also said to Richard Poole at this meeting, "I have been working on this since I was at Lehman's and I do not want my work to go to waste." Do you remember saying that?---I do not remember saying that because I don't recall the meeting.

All right. Then you said, "I have been trying to raise the required funds. I have been to Asia and India seeking finance and it had some interest. I am concerned that the time is running out for me to secure funding. I am determined to make this deal happen." Do you remember saying that?---No.

Whilst I understand your position, Mr Brook, I suggest that in that conversation you did not reveal the name of Monaro or Monaro Mining or identify the public company to which you referred?---The more you are asking me, sir, the less confidence I have that the meeting happened. So, my answer is no.

But is a standard negotiating technique of one investment banker to another not to reveal the name of the client that they're acting for, isn't it?

10

MR TYNDALL: Commissioner, before my client answers I'm not sure how this is, that question can possibly assist you in the deliberation of- - -

THE COMMISSIONER: I'll allow the question.

THE WITNESS: Sir, yesterday- - -

MR STITT: No, no, no, please.

20 THE WITNESS: - - -I made it clear- - -

MR STITT: No, no.

THE WITNESS: - - -that Monaro, sorry, Moses Obeid had discussions with Cascade without my knowledge or consent or in my presence and invited me in to look over the final detail of the mining JV. That's it.

MR STITT: You also on the 1 June, Monday, 1 June, 2009, sent an email to James McGuigan, did you not?---If you would like to show that to me sir I will confirm it.

30

And in that email you said, "Monaro has completed all it said it would and we have control of the bid."?---I think we saw that yesterday, sir, yes.

That was sent on 1 June?---That's right.

And I suggest that was sent after your meeting with Richard Poole. Does that refresh your recollection?---Not entirely, no.

40 And I suggest that at that meeting with Richard Poole which you can't recall, that you said to him that you had been speaking to John McGuigan about a joint venture along the lines of a 25/75 joint venture in the Mount Penny tenement. Do you remember saying that?---I would never have said that. Richard Poole and John McGuigan are partners.

Well, they not, but- - -?---I think you might find they are.

And at that same meeting you said the acquisition cost for the land will be approximately a four or five times multiple of its current value?---I deny saying that. I deny the meeting.

Well, I understand that?---Mmm.

I suggest to you that on Wednesday, 3 June, 2009, you and Moses Obeid met with James McGuigan and Richard Poole at the Arthur Phillip offices?
---That's- - -

10

Do you recall that meeting?---That is possible.

Well, do you recall it?---Not exactly, but it is definitely possible.

And the purpose of that meeting was to discuss the draft letters of agreement?---As I have said to you, sir, only if it occurred regarding the mining JV, not the land.

20

But the reason that Moses Obeid was there was disclosed at that meeting, was it not?---Moses was the reason everything was happening.

But at that meeting on Wednesday, 3 June, Moses Obeid said in your presence, "I represent the landowners. We have agreed to work together, one in, all in", or words to that effect. Was something like that said?
---I do not recall that because- - -

Well, was something like that said?---I don't recall.

30

And at that meeting you advised that the United Pastoral Company Propriety Limited was owned by Andrew Kaidbay?---I deny that.

And you said that he had an option to acquire the land known as Cherrydale Park?---No.

You deny you said that?---I deny I said that.

And Moses Obeid confirmed that such an option existed. Do you remember?---No.

40

Do you remember that there was discussion at that meeting at about the price that the land owners wanted to sell their land the price at which the land owners wanted to sell their land, do you remember that discussion?---I recall in discussions - - -

I'm talking about - - - ---not necessarily that one.

Well, I'm talking about this one you see. I'm being as precise as I can, Mr -
- -?---Possibly, sir, yes, the multiple.

Yes. There was a discussion about the multiple and Moses Obeid started off asking for 15 times the value of the land, did he not?---I do not recall that.

And Richard Poole said, "It should be something around about two or three"?---I do not recall that.

Well, do you remember there was a negotiation - - -?---No.

10 - - - about the multiple that should be applied to the land?---The multiple had already been agreed between the parties.

Well, I need to put this to you, Mr Brook, after Moses Obeid made that claim for the multiple Richard Poole said words to the effect, "That he had to be reasonable and that that was not reasonable." Do you remember him saying that?---I don't remember him saying that but I thought four times was greedy anyway.

20 Did you say that? That must have come as a shock to Moses. Did you say that? Did you say that?---I wasn't in a position - - -

Four times was being greedy?---I thought it was.

Well, did you say that?---But I didn't say it, no.

You didn't say it?---No.

But you do remember do you not that Richard Poole said that they had to be reasonable about the price and it had to be commercial?---That sounds like something Richard would say.

30 And he also went onto say that if, if it wasn't reasonable and commercial that Travers and John would not accept it and it had to be fair?---That sounds consistent with Richard as well.

And at this same meeting when these draft agreements, letters of agreement were being discussed Richard Poole said to you, "You can't have a free carry." Do you remember him saying that?

40 THE COMMISSIONER: At that meeting but the problem is that he's already - he keeps reiterating that he can't remember the meeting so.

MR STITT: Yeah. But he, he comes in and out.

THE COMMISSIONER: No. He says that it sounds like - it's the sort of thing that Richard Poole would have said but he has at no time in any of those answers was it said that he remembers that it had been said at that meeting.

MR STITT: Well, I can only put it as a proposition which - - -

THE COMMISSIONER: I know but it's a bit pointless. I mean I understand that but I mean - but as I said it's helpful to know what your case is, so I'm not stopping you but - - -

MR STITT: Well, I'm not hoping to delay it unnecessarily but - - -

THE COMMISSIONER: Yes. Proceed then, Mr Stitt.

10

THE WITNESS: Sir, I'm not trying to be difficult either.

MR STITT: But I, I need to put these conversations which Richard, Richard Poole said, "You can't have a free carry, it has to be capped at \$10 million, that is the exploration expenditure has to be capped at \$10 million." Do you remember him saying that?---Yes, I do actually.

THE COMMISSIONER: At, at - when?---Well, sir, again, I think it was the if the 3 June - - -

20

No. I'm just asking you what meeting was, did, was this said?---I'm not sure which, which one.

Okay. That's all I wanted to know.

MR STITT: And he said that "The exploration expenditure has to be capped at \$10 million, that is once we spend \$10 million then they had to contribute in proportion to their share so that the free carry was two and a half million." Do you remember him saying that?---It's possible, sir.

30

And at that meeting there was no discussion at all about - I withdraw that. By that time the relevant company that you were involved with was no longer Monaro but a company called Loyal Coal, isn't that so?---That is, that is correct.

And it was with Loyal Coal that you had your retainer agreement?---No. That is not true.

Well it was Loyal Coal that you had taken over the position in, was it not?
---The Obeid group had taken it over, sir, and I had a percentage in the Obeid's interest.

40

It was the same sort of percentage that you used to negotiate when you were at Lehmans, wasn't it?---Yes, sir.

A percentage which represented a share of the action?---Yes, sir. I wasn't paid by the hour, sir.

And at that meeting there was no suggestion that Loyal Coal would have to withdraw its bid was there?---I cannot be specific about the meeting but the document for the mining JV clearly stated that the holder of the EOI for Mount Penny would withdraw and that has been tendered.

That wasn't the question that I asked you, Mr Brook?---Well, okay, please rephrase it.

10 Well the question simply was at that meeting there was no discussion, no question of Loyal Coal having to withdraw?---Because it had already been agreed.

Now there was a further meeting on Friday 5 June 2009, was there not?---Yes there was.

20 And at that meeting on Friday 5 June you had a meeting with John McGuigan, James McGuigan, Richard Poole and you and that was a meeting held in the board room at Arthur Phillip?---Moses Obeid was there as well. I'm not sure if John McGuigan was.

I'm sorry, you're quite right, yes, he was there too. Yeah. And you brought in Andrew Kaidbay, he came later to the meeting?---I don't recall that specifically.

And there may have been Gerard Obeid present as well?---It's possible.

30 THE COMMISSIONER: Did you say you couldn't recall John McGuigan being there?---I don't recall him being at that meeting but it would've been inconsistent for him not, not to be there.

MR STITT: But do you remember that Mr Kaidbay came at some later point to that meeting?---I can't recollect that exactly.

But you do remember these persons being present at this meeting?---Mr Kaidbay wasn't involved in the mining JV negotiation.

But he was involved in the land transaction, wasn't he?---Correct.

40 And at that meeting Moses Obeid said that he was speaking on behalf of Locaway Pty Ltd, do you remember that?---I don't recall him saying that.

And he confirmed at that meeting that the United Pastoral Company Pty Ltd had an option over the Cherrydale Park land. Do you remember that?---I do not recall that being said.

Do you agree speaking as an experienced investment banker that if the land owners in fact united together that made them a very powerful group in terms of negotiating a deal over this commercial transaction?---Yes.

And that power was something that you recognised right from the start, wasn't it?---Yes.

Once the landowners got together under the aegis of Moses Obeid, you recognised that that gave you extremely powerful negotiating leverage?
---It wasn't certain but it was the intention- - -

10 Well, nothing's certain in life, Mr Brook, but speaking as an experienced investment banker, you recognised from the outset that the combined landowners represented a powerful negotiating tool?---Yes, I did, sir.

And you of course were prepared to exercise that power to get a deal done, were you not?---I saw it as a strategic advantage, yes.

Precisely. It was an extremely strategic advantage, was it not?

MR WATSON: Commissioner, I opened on this basis and this is now straying. Could we get to the affirmative case on this issue? That is I would
20 have thought plain, that putting together the properties gave a- - -

THE COMMISSIONER: Yes. Mr Stitt, all of this has been gone through and there's no issue about it.

MR STITT: Well, I'm not seeking to delay. The arrangement and agreement which was reached in early June 2009 was all conditional upon the Exploration Licence being granted, wasn't it?---Correct.

30 Without that, nothing was going to happen?---How could it?

Well, precisely, but you understood that?---Of course.

And it was in express and clear terms?---It was in writing.

You did understand however that the withdrawal of the Loyal Coal bid was a necessary commercial step to bring this agreement to fruition?
---I understood that.

40 Otherwise it wasn't viable unless Loyal withdrew?---That is correct.

THE COMMISSIONER: This is all well-trodden ground, Mr Stitt.

MR STITT: Well, I don't want to push against an open door, Your Honour. Mr Brook, you had some direct negotiations with Richard Poole about acquiring your interest in this commercial transaction?---That is correct.

You had an interest in Southeast Investments?---Not initially but eventually, yes.

And that interest was 12 per cent, was it not?---That, that, of the, of the trust, yes.

THE COMMISSIONER: He's given all this evidence, Mr Stitt.

MR STITT: But I'm just about to ask him about negotiations with Richard Poole.

10 THE COMMISSIONER: Yes.

MR STITT: Do you remember around about 3 September, 2010, Richard Poole had a meeting with you?---That sounds correct, sir.

And he said to you that he had to or wanted to acquire your 12 per cent interest in the 25 per cent?---Correct.

And do you remember that you had a meeting with him at the Bond Café
- - -?---That's- - -

20

- - -on 8 September, 2010?---If that is the café below his office, yes.

And you negotiated a fee for your 12 per cent?---Correct.

And that was for \$1.75 million?---That's correct.

THE COMMISSIONER: It's all been – all this evidence has been given, Mr Stitt.

30 MR STITT: And you instructed Mr Poole to send the money to Singapore?
---I reside in Singapore, my business is in Singapore. That is correct.

And I think you subsequently met Mr Poole for lunch on 3 July 2009 in Nice?---That's correct, in France, yes.

Nothing further.

THE COMMISSIONER: Yes, thank you. Mr Blake, do you wish to
question the witness?

40

MR DICK: Commissioner, I have a handful of questions to ask of the witness.

THE COMMISSIONER: I just, I just asked Mr Blake.

MR DICK: I do apologise.

MR BLAKE: Yes I do, Commissioner.

THE COMMISSIONER: In what area?

MR BLAKE: It relates to four meetings leading to the negotiation of the agreements.

THE COMMISSIONER: Well you're not going to repeat anything that Mr Stitt has asked, are you?

MR BLAKE: I'll endeavour not to, your Honour.

10

THE COMMISSIONER: No, I won't let you.

MR BLAKE: I understand that, your Honour.

THE COMMISSIONER: You better put your affirmative case as well.

MR BLAKE: I will, Commissioner?---I'm sorry, sir, who are you representing?

20

Just a moment, I'll introduce myself?---Thank you.

My name's Garth Blake and I appear for James McGuigan. Mr Brook, I want to ask you about the first meeting that you referred to in your evidence yesterday at White Energy. Do you recall discussing that yesterday?---Yes, sir, I do.

I want to suggest to you that that meeting took place on Saturday 23 May 2009?---Sir, I think it's possible.

30

And it was around about the middle of the day?---It was a long time ago, sir.

THE COMMISSIONER: I really don't see the point of that, Mr Blake, can we move – we're moving so slowly now, can we just stick to the critical questions? The time of the day is not important.

MR BLAKE: Yes, Commissioner. I want to suggest to you, Mr Brook, that there were four people present. John McGuigan, James McGuigan, yourself and Moses Obeid?---That sounds, that sounds right.

40

And at that meeting you said, "I have been advising Monaro Mining in making expressions of interest on quite a few coal release areas." Do you agree with that, you said that?---Probably.

And you said that in its expressions of interest Monaro committed significant contributions above the prescribed minimum as set out in the packages. Did you say that?---I don't believe I said that. I believe I probably confirmed that.

And I suggest that you said that you were involved in arranging a land alliance in conjunction with the Obeid holding for various properties within the Mount Penny coal release area. Did you say that?---I didn't, I did not say that.

And I suggest that you said that the Obeids are land owners in the land alliance within the Mount Penny coal release area and there are three properties within the alliance?---I did not say that because I did not have to.

10 And I suggest that you said - - -

THE COMMISSIONER: What do you mean you didn't have to?
---Commissioner, Mr Obeid had met with Cascade and Mr Flannery as well.

MR DICK: I object?---Well - - -

THE COMMISSIONER: That's to your knowledge, that's what you were told?---That is what I was told.

20 Yes, you understand that, Mr Dick? It's not a trial and I do understand that there's no direct evidence on that.

MR DICK: Yes, thank you?---I did not have to say that because it was understood.

MR BLAKE: And I suggest that you said that because of Monaro's inability to meet it's financial contributions I'm going to acquire its subsidiary and I will try to deal with other parties to raise the money?---I do not recall saying that because the deal was already agreed by Moses with
30 Cascade.

And I said - I suggest that you said, "I am confident that I'll be able to do a deal however in the event I can't perhaps we can do a deal that includes the land owners?---I do not believe I said that.

Now can I take you, Mr Brook, to the second meeting and I think you've agreed it took place on 31 May 2009.

40 THE COMMISSIONER: He said it was possible.

THE WITNESS: Thank you, Commissioner.

MR BLAKE: Well, I suggest to you it did take place on the Sunday afternoon. Do you agree with that?

THE COMMISSIONER: It's already been put to him by Mr Stitt. His answer was it was possible. I won't allow it.

MR BLAKE: If your Honour; please.

And I suggest that at the meeting the following persons were present, Gardner Brook yourself, I mean yourself, Moses Obeid, John McGuigan, James McGuigan, Greg Jones and Paul Obeid. Do you agree with that?
---No.

Who was present of the list I've given you?---I don't believe Greg Jones was there, I don't believe I've ever met, met him.

10

I suggest that you said at that meeting "The Monaro bid for Mount Penny will be withdrawn if we finalise a deal and I will stop shopping around for finance for Monaro"?---That's incorrect.

I suggest that you said that "Monaro has conducted background studies which will also be valuable"?---No.

20

I suggest that you said that "If a deal can be done which includes the land owners then Monaro will withdraw its bids for an Exploration Licence in the Mount Penny coal release area"?---No.

I suggest to you at that meeting there was a discussion about a multiplier for acquisition of the land?---The multiple was mentioned.

And I suggest that Paul Obeid said "There'd be a multiplier of four"?---That is possible.

And that you said, "That's right"?---I did not negotiate the multiple.

30

You disagree saying that, is that what you say, Mr Brook?---I was at the meeting, it was discussed but I do not recall saying that.

And I suggest that at that meeting you said that Andrew Kaidbay was assisting you in arranging the land alliance?---Incorrect.

40

And that you said that UPG was acquiring the three properties in the Mount Penny area and in recognition of that you wanted Cascade to grant an interest in the Exploration Licence?---No. Sir, I've made this very clear the deal had been done between Moses and Cascade.

I suggest to you that at that meeting the interests in the joint venture were discussed. Do you agree with that?---Yes.

And you said that the non Cascade interest that you were representing wanted 30 per cent?---Incorrect, sir.

And there was at that point John McGuigan, Greg Jones and James McGuigan withdrew from the meeting for a short time?---I do not recall that and I reiterate I do not believe Mr Jones was there.

And I suggest to - - -?---I've never met him.

10 I suggest to you that after returning to the meeting John McGuigan said, "They wouldn't agree to anything more than 25 per cent"?---I'll say it again, sir, for everyone's benefit, the 75/25 ratio had already been agreed. I had no part in that negotiation.

And when Mr McGuigan said that, you agreed with that, that you'd agree to the 25 per cent?

MR TYNDALL: Well, I object. Commissioner, enough's enough.

THE COMMISSIONER: Yes, I think it's pointless, Mr Blake.

20 MR BLAKE: Well, I'm just seeking to put my client's affirmative case, Your Honour.

THE COMMISSIONER: Why don't you- - -

MR BLAKE: I have finished now with the meeting.

30 THE COMMISSIONER: I understand that. Why don't you just say what your client's version is of that meeting to the extent that you haven't yet done it and then the witness might say what he wants to say about it and then we might be able to move on.

MR BLAKE: All right. Your Honour, I've finished with the meeting, I will move on.

THE COMMISSIONER: Is it your case, Mr Blake, that Mr James McGuigan did not know that the Obeid interests were involved in the joint venture during these meetings?

40 MR BLAKE: Well, I'm only dealing with – not at that point, Your Honour, 31 May.

THE COMMISSIONER: Is it your case that as of 31 May your client did not know that the Obeid interests were involved in the joint venture?

MR BLAKE: I don't use the word know, Your Honour, that's a very high level of understanding. There certainly was a suspicion that they might be involved in some way, Your Honour.

THE COMMISSIONER: I understand that. There was a suspicion but no actual knowledge. Is that your case?

MR BLAKE: That's correct, Your Honour.

THE COMMISSIONER: At that meeting?

MR BLAKE: Correct.

10 THE COMMISSIONER: And I'm going to ask you that about all the meetings you come to, so perhaps if you go on to the beginning of June and I can avoid that, you can tell me that your, if it is the case, that your case is that that state of mind continued until June?

MR BLAKE: Mr McGuigan thought they might be involved in some way but it was never revealed how or what, in what manner.

THE COMMISSIONER: And that occurred until June?

20 MR BLAKE: Until June.

THE COMMISSIONER: And I say until June, I mean the end of June?

MR BLAKE: Well, until 5 June when the agreements were signed and that was really the end of any negotiations.

THE COMMISSIONER: So he did not know on 5 June?

30 MR BLAKE: He did not know, Your Honour, no. Mr Brook, in the course of the next week the, commencing Monday, 1 June, you were involved in the negotiations for the two agreements. Do you agree with that?---Yes.

Your Honour, can Mr Brook be shown Exhibit J-30, please?---Thank you. Yes, sir?

Mr Brook, can you just open at page 172?---Yes, sir.

40 I think you confirmed yesterday that you received the email on 2 June and the two draft agreements that go through to page 102. Is that correct?
---Yes, sir.

And if you can go to page 191, over to 192, you'll see there an email from you that appears to have a strange timing, 6.06am, in response to an email at 3.09pm, but in which you said, "We would like to review this evening and meet in the morning. Are you and Richard available?" Do you see that?
---I see that.

And did you and Mr Moses Obeid in fact review the two agreements on the evening of Tuesday, 2 June?---I don't recall and I'll re-confirm that my involvement was with the mining JV, not the land deed. So I propose the subject hadn't been changed on the email.

And if you look at the email above that one on page 191 you'll see an email from yourself to James McGuigan and Moses Obeid copied to others, "We'll be at your office at 10.00am in the morning."?---That sounds correct, yeah.

10

Does that help you to recall that you did attend a meeting on Wednesday - - -?---Yes it does.

- - - 3 June at the Arthur Phillip office?---Yes it does.

Do you agree with me that at the meeting on Wednesday 3 June at the Arthur Phillip office you went through the two draft agreements which you had received the previous day?---On which day, sir?

20 On Tuesday 2 June attached to the email I just showed you?---I'll say it again. The - I wasn't involved with the land holders agreement.

THE COMMISSIONER: So does that mean that you didn't review the land - - -?---The land component, Commissioner?

- - - owners deed?---No.

MR BLAKE: Mr Brook, if you look firstly at the agreement at page 179 through to 182, please?---179, was it?

30

Yes, 179 to 182?---Yes, sir.

I want to suggest to you that at the meeting on Wednesday 3 June were present yourself, Moses Obeid, James McGuigan and Richard Poole. Do you agree with that?---It's possible.

And if you can go to page 180, underneath the heading renegotiation of the facility you'll see it commences with the words, "Within 90 days of entering into the SPA"?---I see that.

40

I suggest that at that meeting you asked the 90 days to be altered to 60 days?---I don't recall that because I wasn't involved with the land component.

Okay. Can you see the heading, "Completion of the SPA"?---I can see that, sir.

And you'll see, "Completion of the SPA will occur within 90 days of Cascade", etcetera?---I can read, sir, yes.

And at that meeting you asked for 90 days to be reduced to 30 days, do you agree with that?---No, why would I do that?

And can you look at the top of the page, please, 180?---Yes.

10 And you'll see two dot points dealing with multiples, see that?---I can see it.

And I suggest that there was a discussion at the meeting about altering those two dot points so there was a single multiple of four relating to all properties.

THE COMMISSIONER: Are you – is it being put that Mr Brook participated in that discussion?

MR BLAKE: Well I'm just going to take it in steps, your Honour.

20 THE COMMISSIONER: Well it's – I really wish you wouldn't. These steps are baby steps, I really would like to get this over and done with because it's quite clear what the witnesses attitude is.

MR BLAKE: If the Commissioner please.

THE COMMISSIONER: But if you want, if you want to put that he participated in the discussion which is reflected in the two dot points on page 180 you're free to put it.

30 MR BLAKE: Yes, your Honour. I suggest, Mr Brook, that there was a discussion about the multiples in which you participated. Do you agree with that?---It is possible that a conversation to more simplify the agreement took place.

And do you agree - - -

THE COMMISSIONER: In which you participated?---It's possible, sir.

40 MR BLAKE: And at the bottom of the page you'll see in the last three lines some words which are defined as Mining Lease?---Sorry, which page are we talking - - -

Page 180?---180.

THE COMMISSIONER: That's the paragraph headed - - -?---Yes, sir, I can see that.

MR BLAKE: And you asked that the word Mining Lease in this agreement be changed to Mining Approval. Do you agree with that?---That's possible. I don't recall it exactly but just possible.

Can you turn over now to pages 175 to 178?---Yes, sir.

And go to page, sorry. Do you agree that this agreement was discussed at the meeting, draft agreement?---This one, yes.

10 And can you look at page 176?---Yes.

And the first paragraph under the heading 'Obligations of Buffalo'?---I'm reading it now, sir, if you could give me a moment to read it, please. I've read it, sir, thank you.

Now at that meeting I suggest that Mr Poole said, "You", that is Buffalo, "can't have an unlimited free carry"?---I believe Richard would have said that.

20 And he said, "We need to put some perimeters around it. The 25 per cent interest should it end at the earlier of Mine Approval for 100 million tonne resource or expenditure of a minimum amount"?---Correct.

And you said, "We are sensitive to early dilution of Buffalo's interest"?---I more than likely said that.

And you said that "Cascade has deep pockets"?---Mr Poole is representing Cascade, sir.

30 I suggest that you said, "Cascade has deep pockets we don't want to be squeezed"?---I don't recall saying that.

There was also a discussion in which you were involved that if Cascade picked up mining interests over continuous areas that would be added to the joint venture?---Yes, I did.

And that's something you were asking for?---Yes.

40 Following the meeting on 3 June you got legal advice didn't you?---I don't recall.

And you turn, Mr Brook, to pages 218?---Sorry, 218?

Yes. 216 of Exhibit J-30.

THE COMMISSIONER: 216 or 218?

MR BLAKE: 218 to 226.

THE COMMISSIONER: What's your question, Mr Blake?

MR BLAKE: Well, he's - I think he's still looking, your Honour.

THE COMMISSIONER: I beg your pardon.

THE WITNESS: Yes, sir.

10 MR BLAKE: That's an email from you to Gail Owen, is that correct?---It says so.

And she was a lawyer at Ebsworth's in Melbourne?---Actually she's a mining lawyer I think.

Yes?---Yes.

And was the firm Ebsworth's?---Yes.

20 And you sent her both the equity agreement and the landowners' agreement for advice?---For review, yes.

Well, review and input?---Correct.

And at your request, you asked Moses Obeid to send her some information about the landowners' agreement, didn't you?---I'm sorry, could you repeat that, please?

30 At your request, Moses Obeid sent information relevant to the landowners' agreement to Gail Owen?---It's, Moses was handling the land so that is possible.

And if you look at page 227, that was an email which you were copied into. Correct?---Yes, sir.

And what's recorded there was correct, that you asked Moses to send some information to Gail Owen?---Yes, sir.

40 If you look at page 239 that was some more information that you asked Moses to send to Gail Owen?---Correct.

And if you look at page 254, that was some information you yourself sent Gail Owen for advice about the landowners' agreement?---It says so.

And if you go to page 258, that's an email that you sent on the morning of Friday, 5 June.

THE COMMISSIONER: Which one? The top of the page, is it?

MR BLAKE: The one at the top of the page.

THE WITNESS: I'm just reading it, sir. One moment, please. Yes, sir.

MR BLAKE: And you intended at 9.45am to bring your own drafts of those two agreements to the meeting, didn't you?---Revised drafts, sir.

Do you agree that- - -

10

MR WATSON: I object. There's no point in this. The documents are all very plain. Edgeworth's prepared a draft, it was taken to the meeting and they signed a contract. I cannot otherwise see how this is advancing this inquiry.

THE COMMISSIONER: Yes, I'm wondering the same thing, Mr Blake.

MR BLAKE: Well- - -

20

THE COMMISSIONER: I mean where are you going with this, what does it all mean?

MR BLAKE: I'm going to go to the meeting now.

THE COMMISSIONER: Well, you've asked him to confirm a lot of material which is tendered and which has been dealt with to a large extent and I've been waiting for the conclusary point that you're going to put. What is the, what was the purpose of doing all of that, are you going to ask Mr Brook to comment on all the material that you put to him?

30

MR BLAKE: Well, I do intend to put a question at the end of the whole sequence, Your Honour, yes.

THE COMMISSIONER: All right. Proceed, Mr Blake.

MR BLAKE: There was a meeting at the Arthur Phillip office on the afternoon of Friday, 5 June, Mr Brook, at which you were present?
---I believe so.

40

And also at the meeting, well, we've covered that. The meeting took place in the boardroom I suggest?---At Arthur Phillip?

Yes?---Yes, sir.

THE COMMISSIONER: Can we leave out the trivial detail? You've got a meeting, what does it matter where it took place? He admits the meeting.

MR BLAKE: During the course of the meeting, the two agreements were revised. Do you agree with that?---It was the day both agreements were signed.

Mr Brook, can you go to the agreement at page 270 through to 274?---Yes, sir.

Firstly can you go to page 271?---Yes.

10 And the first dot point?---Yes, sir.

Those words in the first dot point, the words including Gardner Brook and Loyal Coal withdrawing any existing application in relation to the Mount Penny and Glendon Brook coal release areas were discussed and included in that agreement for the first time. Do you agree with that?---I don't believe for the first time. I think there were earlier drafts including - - -

20 THE COMMISSIONER: They're two questions wrapped up in one. The first part is was this the first time this was discussed, what the subject of the first dot point in 271? Was that the first - - -?---I don't, I don't believe so, Commissioner, no.

And the second question is, is this the first draft in which this first dot point appears?---No. I confirmed yesterday that this agreement was drafted by Cascade. The intellectual property component I vividly remember John McGuigan inputting into the document. And I agreed yesterday that Buffalo had no intellectual property to contribute.

30 MR BLAKE: Mr Brook, can you go over the page?---Yes, sir.

You'll see the heading, "Management of the joint venture", do you see that?---Yes, sir.

And on the second paragraph do you see those words?---Yes.

I suggest throughout the meeting you said Buffalo needs to be entitled to view the books and records of the JV to ensure that Cascade is compliant with its obligations, we will need to be able to inspect and obtain companies of all exploration records and data.

40

THE COMMISSIONER: What is this to do with the issues the Commission is investigating, Mr Blake?

MR BLAKE: Well it's - - -

THE COMMISSIONER: That question. What has that question to do with the issues the Commission is investigating?

MR BLAKE: It's Mr Brook's continuing involvement from day one in the negotiation of this agreement and as well as this or the other one.

THE COMMISSIONER: I won't allow that question, it's really a waste of time and irrelevant.

MR BLAKE: I suggest to you, Mr Brook, that at each of the meetings – that's the four meetings – you were involved in negotiating the terms of the land owners agreement. Do you agree with that?---No.

10

Yes, no further questions, your Honour.

THE COMMISSIONER: Yes, who else wishes to question Mr Brook?

MR NG: Commissioner, I do.

THE COMMISSIONER: Yes.

MR NG: I just wish to put to the - - -

20

THE COMMISSIONER: Sorry, who do you represent, please?

MR NG: I – it's Mr Ng appearing for Mr Duncan.

THE COMMISSIONER: Yes.

MR NG: I merely wish to put to the witness, Commissioner, that in the course of his negotiations with Cascade Coal in May to June of 2009 the witness did not in fact attend any meetings at the offices of White Energy.

30

THE COMMISSIONER: Yes.

MR NG: Mr Brook, yesterday you gave evidence that in the period May-June 2009 you attended two meetings at the offices of White Energy in York Street and a final meeting at Arthur Phillip. Do you recall that?---Yes.

MR WATSON: No, I think that – I don't think that's right. I think he said on Kent Street and that explains what the witness - - -?---Sorry, Kent, yes. Thank you.

40

MR NG: Well, with respect to my learned friend on page 1587 of the transcript line 41.

MR NG: All right. Sorry, I shouldn't have interrupted, anyway.

THE WITNESS: I confused the street name, I apologise.

MR NG: I accept that, Mr Brook. Now take it from me, Mr Brook, that until January 2010 the offices of White Energy were located in North Sydney. In light of that do you wish to revise or qualify your evidence concerning attending meetings at the offices of White Energy?---If I was on the assumption it was White Energy but the office Kent Street was a retro fitted glass type building and I, I could not confirm it was White Energy.

10 THE COMMISSIONER: Why did you assume that it was White Energy?
---Commissioner, because when Moses Obeid told me about the meeting he mentioned John McGuigan being a director of White Energy. It was an assumption.

MR NG: In any event, Mr Brook, none of these meetings occurred in North Sydney did they?---No.

Nothing further, Commissioner.

THE COMMISSIONER: Mr Eurell, what questions do you want to ask?

20 MR EURELL: Mr Commissioner, I'm instructed to seek leave to clarify some of the reasons of the relationship between Mr Selby and this witness came to an end.

THE COMMISSIONER: No.

MR EURELL: Thank you. But just a moment, Mr Tyndall.

30 THE COMMISSIONER: Mr Tunks, you're representing Moses Obeid aren't you?

MR TUNKS: I am, your Honour.

THE COMMISSIONER: I have noticed that there have been no questions asked on his behalf throughout these proceedings. Now the - I am sure that you've read the directions on this.

40 MR TUNKS: I have, your Honour. I've spoken to Mr Robberds who can't be here today and the advice or the forensic decision in regards to this matter have been made by Mr Robberds that there'll be no testing of the witnesses.

THE COMMISSIONER: Well, I, I, I accept that and that's your right and entitlement to adopt that approach but I'm putting you on notice that as appears in the, in the supplementary directions as to the cross-examination of witnesses these directions being published in mid October the Commission expects that where it is contended that deliberately false evidence has been given or that there's been a mistake on the part of the

witness on a significant issue the grounds of such contention will be put and I take it therefore - well, I withdraw that.

I put you on notice that the absence of cross-examination on important issues involving your client could well lead to an inference that the admission - that, that the evidence that has been given relating to your client on which no cross-examination is taking place is admitted by your client. So I'm just telling you that. You're on notice. That the failure to cross-examine could well lead to a finding that is taken to admit that evidence.

10

MR TUNKS: I understand that. We accept that notice.

THE COMMISSIONER: Yes, thank you. Mr Tyndall.

MR TYNDALL: Thank you, Commissioner.

THE COMMISSIONER: I take it there's no-one else who wishes to question Mr Brook other than Mr Watson.

20

Proceed, Mr Tyndall.

MR TYNDALL: Thank you, Commissioner.

Two areas I wish to take you to, Mr Brook. One concerns the, this shadow that has been following your evidence in relation to the direct knowledge of your, your direct knowledge of Mr Macdonald's involvement in any of this and the second area in which I'll go to first, Commissioner, is how you - what happened around the time of Monaro pulling out and how you then got - you became involved in the, the new process with Cascade.

30

THE COMMISSIONER: Mr Tyndall, you can proceed on both those points but I will not allow questions that are repetitive.

MR TYNDALL: No, I understand, Commissioner, very much around that point.

THE COMMISSIONER: Very well, proceed.

MR TYNDALL: These aren't.

40

THE COMMISSIONER: Yes.

MR TYNDALL: In relation to the withdrawal of Monaro or the "cold feet," it's been put, aspect, Monaro not wanting to proceed, where were you when you found out that Warwick Grigor was being removed by the board of Monaro Mining NL as chairman?---I was in London.

Right. What did you do, what happened after you found out?---I was in London promoting Monaro to stockbrokers.

And, and after you found out, what did you do?---I called Moses and said, "We have a problem."

Right. And then what did you do, did you come to Australia?---I had no further reason to be in London, so yes.

10 All right. And you came to Australia on 3 May and you spoke to Moses Obeid?---Correct.

Now, I want to, I'm asking you questions about how you became involved and what did you get told and what did you know about, please- - -?
---I understand.

- - -about the Cascade involvement. So the first point is, Mr Moses Obeid met with you and in relation to Cascade and in relation to Mount Penny, what did he say?---He said that he had met with the people at Cascade
20 regarding Mount Penny, they had struck general terms on the land and on the mining and he wanted me to assist with the process of convincing Monaro to assign its rights to a vehicle that we would control and therefore take over the bids and withdraw Mount Penny, Glendon Brook, and possibly one other, I can't recall.

Right. You didn't have, you didn't have a retainer any more with Monaro at that time?---No.

Who was paying you at that time, anybody?---No one.

30 Sorry?---No one, sir.

All right. So did you then, what, what, what was your position in terms of income or, you know, you're a dealmaker, you're an investment banker, what were you, what was the situation, what did you think was going to happen?---When Mr Obeid described Cascade to me I was extremely relieved. They're very very smart capable people, very powerful people, they know coal, they know the area, they were perfect, and the opportunity
40 for me to stay in the deal was of great relief.

So you, did you, did you come up with any arrangement at that time with Moses Obeid?---It, it was actually never a negotiation, it was 12 per cent of their stake.

So you, you were told you got 12 per cent?---But that was three per cent of the entire deal, which is about market for that type of deal.

Commissioner, just perhaps a need for a correction at the transcript at 1061 point 4 to 1062 point 10, there's a reference to 97, where the remainder after Mr Brook's 3 per cent was 97 per cent, but that wasn't correct, it was, he had 12 per cent of 25 per cent, which would have equalled 3 per cent of the whole deal.

THE COMMISSIONER: I thought that was clarified, Mr Tyndall?

10 MR TYNDALL: Thank you. So after that you, did he tell you at that time the names of the people he spoke to?

MR DICK: I object to this, Your Honour. This has already been dealt with in Mr Brook's evidence and it will plainly lead to an eliciting once again of my client's name and- - -

MR WATSON: I endorse the objection. It's already been asked.

20 MR TYNDALL: Here's the point, Commissioner. The Cascade directors' position appear, or the representatives of Cascade appear to be suggesting that Mr Brook was somehow involved in the property thing, that he was the coordinator of this whole process and I don't want the Commission to be left in any doubt as to what exactly the position was.

THE COMMISSIONER: Well you can elicit that without going through areas which have already been canvassed.

MR TYNDALL: Thank you.

30 THE COMMISSIONER: So I uphold Mr Dick's point.

MR TYNDALL: Thank you. You've been – a number of questions have been put to you about the, the property dealing and the, the property side of the transaction and the mining side of the transaction. You've told us a number of times that you weren't involved in the property side, correct?--- Correct.

40 All right. Just, just tell us what part of the mining side of the transaction did you develop, if anything?---The terms, the broad terms of the mining JV had been agreed.

And you had a meeting in a coffee shop with Mr Moses Obeid prior to a meeting with the Cascade people?---That's correct.

And you can't remember the exact date but before any meeting with the Cascade people you met with Moses Obeid?---That was always the case.

Yeah. And he told you how to handle, what to say in that meeting?---Yes.

What did he say?---He said – well I didn't know Mr – John. He said he's a very, very smart lawyer and we really need you to ensure that the – what's being agreed is enforceable.

Did he talk to you about the contiguity of the, the land plots and some issue that might arise about further exploration of contiguous areas?---That was always part of the grand plan, if you like.

10 THE COMMISSIONER: What was?---Well, Commissioner, I haven't been asked this question yet. There was suggestion that the contiguous area of the Mount Penny EL area contained a lot more coal than the first area. So - - -

And - - -? - - - to include the contiguous area was crucial to the deal.

MR TYNDALL: Thank you. And - - -

20 THE COMMISSIONER: Is it – that is from Mr Moses Obeid's point of view, is that what you're saying?---That is correct, Commissioner.

MR TYNDALL: But it was, it was the case that the – that was discussed, the contiguous areas were, were discussed?---I was quite forceful on those issues, I was instructed – Moses' – made it very clear I had to enforce that point.

Did you at any time negotiate or agree with John McGuigan or any of the parties with Cascade outside of the terms or frame of reference that Moses Obeid gave you?---I never met with any of them without Moses.

30 No, I'm not asking you that?---No.

Did you ever - - -?---No.

Did you ever negotiate - - -?---No.

- - - or agree outside of the terms that - - -?---No.

- - - Moses gave you?---No.

40 Thank you. You've talked to the Commission about – both in private hearing and here – about your knowledge of Mr Macdonald's involvement. You'll recall Arlo Selby giving evidence that he had been present when you were also present – there was a discussion about Mr Macdonald being on side and you deny that that took place in your presence. Do you remember that?---Yes.

Well – and you, you have at various times talked about the lack of specific – your lack of specific understanding of where the information was coming

from but you thought it was consultants and geologists and so on, correct?
---Correct.

So did you at some time understand or gain an understanding that Ian Macdonald, member of parliament, was behind - - -

THE COMMISSIONER: I won't allow that question unless you elicit how he – first how he obtained that understanding.

10 MR TYNDALL: Thank you, I was going straight to the point, Commissioner, but I will bring that on. Mr Brook, you were aware that at some stage there were some companies going to be invited to apply for – under the EI, EOI process sometime between July and September '08?--- Correct.

THE COMMISSIONER: And how did you know that?---Moses – Commissioner, Moses Obeid told me.

20 MR TYNDALL: And your, your sense was through either conversations, words that were dropped, inferences or otherwise was in that period up to September '08 that that was coming from his contacts or consultants or geologists, is that right?---That's right.

And then the – at some stage you, you – around November – you heard that the EOI process was to be reopened?---That's correct.

Where were you then?---I believe Calcutta.

30 And did you, did you speak to Moses Obeid?---Yes.

What, what did you say to him and what did he say to you as best you can remember in the first person?---What do you know about this and why.

And what did he say?

THE COMMISSIONER: You said that?---I asked Moses.

Talking about the reopening - - -?---Do you know why.

40 - - - of the process?---Yes.

MR TYNDALL: And he said?---He said he – I can't really recall, sir, what he said.

THE COMMISSIONER: Well what was the gist of what he said, Mr Brook?---That it was the Minister's decision.

Which Minister?---Well Mr Macdonald.

Did he say the Minister or did he say Mr Macdonald?---I can't recall exactly, Commissioner.

So he just said the Minister. Did you know who he meant?---Well yes I did.

How did you know that?---Well I presumed he was the only person who could, who could make that call.

10 Yes, Mr Tyndall.

MR TYNDALL: But you knew Ian Macdonald was the Minister because you'd had discussions with Moses Obeid that he was the Minister for - - -? ---Well it was public knowledge as well, so - - -

Yeah, yeah. So subsequent to – now you were in India at the time trying to - - -

20 THE COMMISSIONER: Did you have, did you have discussions with Moses Obeid, with Moses Obeid concerning Ian Macdonald?---No.

MR TYNDALL: How did you find out that Ian Macdonald was the, the Minister responsible?---It was public knowledge, sir.

After – the time you were in India, you were raising - - -

30 THE COMMISSIONER: Well it was the public knowledge that he was the Minister. It wasn't the public – it wasn't public knowledge that he was responsible for the decisions so what do you mean?---Well I asked Moses why do you think they've been reopened? To the best of, of my recollection, he said the Minister.

MR TYNDALL: In any event you, you were in India at the time trying to raise money for the Monaro bid?---I was trying to broker a joint venture with the Jane Group.

Thank you. And over a period of time you continued to raise money in India and France and the UK for the Monaro bid, correct?---I attempted to.

40 Yeah. And then at some – and you continued to liaise with Moses Obeid in relation to the whole Mount Penny transaction?---Yes.

And at some stage did you – were you, were you told something about Mr Rees, Nathan Rees?---Yes I was.

Do you know when that was?---In Calcutta.

And what happened – what, what were you – who were you told that by?---
Moses.

What did he say to you?---He's about to become premier.

And then did you, did you read something the next day?---That was
confirmed.

10 THE COMMISSIONER: Well what was the, why did Moses Obeid tell you
that Mr Rees was going to be premier?---He just mentioned it in the Skype
call.

In what context did he mention it?---I don't recall the context.

MR TYNDALL: Thank you?---He just mentioned it.

All right. But, but that - - -?---I felt it irrelevant but, you know, he
mentioned it.

20 But when you found out that that was in fact the case that Mr Reese had
become premier - - -?---Yeah.

- - - did that confirm to you anything about Mr Obeid?---It put doubts in my
mind about the integrity of the information being provided.

And at some stage did you - you told my learned friend assisting that you
had either an inclining or a feeling that Mr Macdonald might have been
involved. Is that correct, at some stage between - - -

30 MR HALE: I object, I object to that. I think the word was suspicion.

MR TYNDALL: Suspicion, thank you. I'm grateful to my friend.

Suspicion?---The re-opening of the process and invitation of Cascade and
Moses introducing me to Cascade seemed very convenient. So I started to
wonder but given the integrity of the Cascade people I didn't think about it
any further.

40 Those are the questions, Commissioner.

THE COMMISSIONER: Mr Watson.

MR WATSON: Remember you were asked some questions a moment ago
about contagious areas and then you - - -?---Yes, sir.

- - - you spoke of the grand plan?---Yes.

Now I noticed that you used a hand gesture in the air - - -?---Did I?

- - - when you did that. Do you remember doing it?---Probably.

Who spoke to you about this grand plan involving - - -?---That was - - -

- - - potential contiguous areas?---That was Moses at the very beginning.

Could I ask you did he do this in the context of showing you any plans?---In the maps.

10 Could I have - asked that the witness be shown MFI 5 and MFI 6?---Thank you.

Now you'll see that they're marked in the top right-hand corner. One of them you'd seen before and one you hadn't and I've just forgotten which was which. Which was the one that you'd - - -?---MFI 6, sir, this one.

Thank you?---Yeah, that's the one.

20 And that's the one with the red hatched area that we've called the S?---Yes.

Was that the map that was under discussion at the time you spoke of the grand plan?---Yes.

Now in the context of that can you tell us what Moses Obeid said?---They indicated - - -

When you say they - - -?---The Obeids.

30 Well, this is a meeting - - -?---Moses and Paul.

- - - where there was more than - just Moses?---Moses and Paul.

And Paul?---And possibly Gerard.

Right, okay. And one of them spoke, you can't put the words down - - -?
---Well, they all spoke.

Like you and I are speaking - - -?---Yes.

40 - - - over each other?---Sorry, sir.

But, so you can't when you say they put these words into one of the particular Obeid boys mouths but what did the person say?---Can I, can I direct on the matter, is that all right.

Yes. And if you indicate with the map I'll try and describe it for the Commissioner. MFI 6. With the red hatched area which we describe as the S?---I'll describe it on the screen if you like?

If you wouldn't mind that way - - -?---Okay.

- - - we'll be able to follow?---If you follow the right-hand side where it says Mount Penny that line.

All right. Well, then - - -?---Okay.

10 - - - the marvels of modern technology there's a little hand then there now?--Yeah. So it, it - go north and to the left and stop thereabouts. I think that was the approximate initial EL area.

All right. Well - - -?---But the rest of that - - -

I've got to describe this for the record?---Yeah.

20 What you've done is or when you got the hand on it to stop on the red diagram itself you moved to the left from about Meads Crossing along to a point just where there's a little rise assuming north is upwards rise north in the line of the tenement?---I think that's right, Mr Watson. It's thereabouts, sir.

But, but there's a - - -

UNIDENTIFIED MALE SPEAKER: It's not the tenement.

MR WATSON: Sorry?

30 UNIDENTIFIED MALE SPEAKER: It's not the tenement.

MR WATSON: So, sorry, the tenement. Perhaps I was wrong - - -

THE COMMISSIONER: Mr Watson, why don't you ask Mr Brook to draw on it with a pencil?

MR WATSON: I don't want to destroy the particular one that we have as MFI 6 but- - -

40 THE COMMISSIONER: You can take, have we got a copy, have we got a copy?

MR WATSON: We will be able to get a copy in just a moment.

THE COMMISSIONER: Well- - -

THE WITNESS: Mr Watson- - -

MR WATSON: No, just we'll leave it for a second, I'll give you the opportunity, we'll just do this.

THE COMMISSIONER: Well, you can take, you can take mine. Oh, you've got it.

MR WATSON: Now, Mr Brook, I cut you off just then, you wanted to say something?---Well, it's been a very long time, Mr Watson, since I've looked at this map. To the best of my recollection- - -

10

THE COMMISSIONER: Why don't you draw it, Mr- - -?---I'm doing it now, sir, and then I'll provide it to Mr Watson. I've just put a line – it's a guess – but that area- - -

MR WATSON: When you say a guess, I mean- - -?---Well, thereabouts.

- - -a guess means no information at all. Are you trying to base this upon what was said and shown to you on the day?---Said, yes, yes.

20 All right?---They said that that's the EL initially, but this area here- - -

Now, what you've done, so that it's clear on the record, is you've put a pencil mark which- - -?---Around here.

Yes. And did they show you, I mean if that was the tenement, it's only a line, did they show you where the four boundaries were, as it were?
---Not, not, I, I just recall that this was the initial tenement.

30

Well, see, you've marked there with your thumbs and two index figures a square or rectangular area. Could you draw that onto the map, the square or rectangular area you just indicated with your fingers?---Here.

All right. Okay. Thank you. So they showed you that and then you were going on to show with your finger something else that was said or shown to you on the day?---They indicated that the area, the area to the west- - -

Yes?--- - - -the contiguous area, they believed through their sources, and they were those words, was much more coal rich than this initial area.

40

And did they indicate that that area to the west, the contiguous area, did they indicate whether it was likely that that would ever be opened or what they knew about that?---What they told me was that – and again at that time I knew nothing about mining or resources – they told me that once you start mining a particular area you have to apply for any contiguous areas, however the likelihood of being granted the contiguous area is very high. So instead of 100 million tonnes they were talking 700 to a billion tonnes.

THE COMMISSIONER: Can we put a time on this, Mr Watson?

THE WITNESS: Sorry, a million tonnes.

MR WATSON: This is a conversation that you had when the maps were presented – yesterday you gave some evidence about the maps being present at a meeting at the Wentworth Hotel?---That's right.

And that was sometime after the first time you ever met Moses. About how long after the first time you met Moses?---I think it was the second time they, they produced the map and- - -

Was that a matter of days, weeks or months?---Days.

I tender that drawing as marked by Mr Brook.

THE COMMISSIONER: Yes. The map of the North Bylong Mount Penny area, map 1, marked by Mr Brook is J-42.

20 **#EXHIBIT J-42 - MAP NORTH BYLONG AREA MAP 1 MARKED BY MR BROOK**

THE WITNESS: I'm just trying to be helpful, sir.

MR WATSON: Just to make it clear, on the rest where you were indicating with your finger, did that include all of the rest of the pink hatched area? ---That's what they indicated to me.

30 All right. Thank you. The Commission staff will take that from you, Mr Brook. They are the questions that I had in re-examination.

THE COMMISSIONER: Mr Brook, thank you for your evidence, you are discharged from summons, you are free to return to Singapore, thank you for your evidence.

THE WITNESS EXCUSED

[12.15PM]

40

MR WATSON: Thanks, Mr Brook. Commissioner, I call James Malone, but Commissioner I – Mr Malone has come over from Western Australia and we're very grateful from that. He's on a 4 o'clock flight so I'm afraid I'm going to ask you to sit on and take an irregular luncheon break if that be all right.

THE COMMISSIONER: Well, all right.