

COMMISSION RESUMES ON TUESDAY 29 NOVEMBER 2011 AT 9.33 AM**MR PHILLIPS ADDRESSES THE COMMISSION****5 STEVE MCCARTHY (RE-SWORN)****MR MILLS ADDRESSES THE COMMISSION**

Before I continue with Mr McCarthy's evidence there's just one matter I want to deal with and this relates to an article that was in The Press this morning on page A2 which said it was reporting a statement by a woman called Summer Olliver who was one of the survivors of the PGC building collapse and it was reported under the heading, "Some Information of PGC Hearing Incorrect Survivor Believes" and then went on to say that she had expressed concern that some information discussed yesterday was incorrect and quoted her or purported to quote her as saying, "There are some things they say that I just want to say, 'That's not right, the cracks were like this'." Now of course that was a concern to counsel because if there are further facts out there then it was important that the Commission hear them and so contact was made with Ms Olliver this morning to see if she could appear this morning to give evidence about these additional matters. She's not available this morning. She will be here tomorrow if the Commission needs to hear from her but she has made a statement which she's authorised me to read out and she says that she did not express concern that the information discussed yesterday was incorrect. She did not say what she was quoted as saying and she has nothing to say against what anyone said yesterday about the cracks. So that's the statement and that's what I'm authorised to read out into the record. So on that basis it wouldn't be necessary to call her because there's no additional information that she seems able to give but if the Commission wants her to be heard in person she's here tomorrow as a spectator, as an observer and she's willing to be called to give evidence then.

JUSTICE COOPER CONFERS WITH COLLEAGUES

We don't think there's any need for her to be called. I suppose and I just make the observation that it does underline the need for particular care on RCI – Canterbury Earthquakes – 20111129 [Day 13]

matters such as this in the reporting of them in the media because obviously the Royal Commission's task is to get to the truth of what happened and so we are concerned if information that we receive is incorrect and need to follow up on such assertions however lightly they may be made they can be of concern.

MR MILLS:

That was why we contacted her this morning to see if she did have this information but the answer appears to be no.

10 CROSS-EXAMINATION CONTINUES: MR MILLS

Q. I just want to ask you about one further matter and it's document WIT.COL.0002.15 and the Commission is it's in the spiral bound bundle you've got there headed, "PGC Building Index, the bundle" and in there it is under those yellow plastic tabs it's Tab 5. It's the LIM report. Have you got that in front of you Mr McCarthy?

A. Yes I do.

Q. I just want to get some further information and clarity hopefully around what this is. This is the LIM report, as you know, for the PGC building. It was referred to yesterday in the course of evidence by Mr Collins. Now can you just explain to me what this is and how it came to be on the PGC LIM report and perhaps I'll break that down into a couple of questions and you can tell me whether I'm right on the way I'm framing these. The first is that my understanding is that at some stage, and I don't know when, the Council set up a search term of some kind and then did an electronic search on some cohort buildings to identify those which might be quake-prone. Am I right on that?

A. Yes you are.

Q. And can you tell me when that was done?

A. I believe it would have been done in the mid 2000s, around about 2005 or 6 would be my expectation. Do you want me to elaborate on the nature of the –

Q. Yes I was going to ask you if you knew enough to be able to tell the Commissioners what the search terms were and what was the cohort this was aimed to pick up?

5 A. The, um, buildings, commercial buildings built before 1976 were built to earlier building standards. We were unsure if those buildings were earthquake prone or not but our expectation is that a large number of them would have been potentially earthquake-prone so based on that we did an electronic scrape of all our building records and this insertion was put into buildings, commercial buildings, that were built prior to
10 1976.

Q. That's how the PGC building was noted on its LIM report as being potentially earthquake-prone?

A. Correct.

15 Q. I asked you yesterday you will recall about the assessment process that was done initially under the Emergency Powers Act that led to that report of the 5th of September and what information the assessment team would have taken into the field when they went to look at the PGC building and I thought you were telling me that no particular significance would have been attached to the fact that it was an older building. Have
20 I misunderstood what you said yesterday?

A. I think the rapid assessment, level 1 assessment, is looking at any observable damage. Having said that I'm sure that because of the experience of the building teams going out the age and state of a building would have been taken into account. Whilst they wouldn't have
25 had specific building by building information they would have taken into account features and the age of the building.

Q. And would you expect them then to have been aware that the PGC building was a potentially earthquake-prone building?

A. That would have been part of their consideration.

30 Q. Do you know who the registered engineer was who was part of that initial assessment team?

A. No I don't.

Q. Is it possible to ascertain that at this point by looking in some records?

A. I'm sure I could get that information for you.

Q. I wonder if you could do that. I think we would be interested to know who that was. Thank you.

0943

CROSS-EXAMINATION: MR ELLIOTT

5 Q. Mr McCarthy good morning. In paragraph 3 of your statement you say that you had been asked to provide evidence to the Royal Commission relating to various aspects of the Council's involvement. Just so that we can clarify the position, can you confirm that what has happened is that the Christchurch City Council has been asked to comment upon
10 particular matters and to provide a brief of evidence from the Council officer or officers with most direct knowledge of such matters and for that person to attend to give evidence and you have been nominated by the Council to serve that purpose?

A. Yes I have.

15 Q. You've given some evidence already in these proceedings and are you going to be giving evidence in future on the hearings relating to unreinforced masonry buildings where people died around town?

A. Yes I will.

Q. Just so that we can understand then your position within the Council you are the environmental policies and approvals manager is that right?
20

A. Yes I am.

Q. Would you just describe for us where you sit within the Council hierarchy, we have the mayor and the councillors?

A. Mhm.

25 Q. And then we have the CEO, so where, I use the word below, not critically, where below the CEO do you sit within the hierarchy at the Council?

A. I'm a third tier manager, I report to, um, to a general manager who reports to the CEO, ah, the general manager is one of, um, I believe
30 seven general managers and my position is, ah, directly reporting to that general manager.

Q. On?

A. Matters that – just if I can anticipate your next question, on matters relating to, ah, district plan and building consenting matters.

Q. Who is your manager?

A. Ah, it's Peter Mitchell.

5 Q. So you have the full authority of the Council to give evidence about the position of the Council on the issues which the Council has been asked by the Royal Commission to address?

A. Yes I do.

10 Q. And so you're in a position to assist the Royal Commission by giving a full account of the Council's role including by identifying if appropriate where it might have done better?

A. Yes.

15 Q. One of the areas that the Council was asked to comment upon was the compliance of the PGC building as originally designed and constructed and as altered and maintained with the requirements of the Building Act and its predecessor and associated legislation and the Christchurch City Council was the owner until the PGC group bought it allowing for the fact that it subsumed the Drainage Board, is that right?

A. That's correct.

20 Q. And so when the Drainage Board was, I use the word subsumed the Council took possession of ownership, of ownership, files and documents relating to the ownership of the building?

A. Yes that occurred in 1989.

25 Q. So on the issue which the Council was asked to comment upon in its capacity as I suppose both owner and regulator, that is the state of compliance of the building as originally designed and constructed, is that a question answered in paragraph 9 of your brief?

WITNESS REFERRED TO PARAGRAPH 9 OF BRIEF OF EVIDENCE

A. Yes.

30 Q. That's 23, so you say, "The Council issued a building permit for the building on 24 February. This would indicate that the Council at that time considered the building to comply with the relevant building bylaw, standards and codes"?

A. Mhm, yes.

Q. Doesn't a building permit relate to the plans of a building and not to the –

A. Sorry?

5 Q. Doesn't a building permit relate to the plans of a building as opposed to the building as constructed?

A. Yes that's correct.

Q. So plans are permitted –

10 A. The plan, the plans are permitted but encompassed in the building permit there are, um, a number of defined inspection points, ah, where the, ah, the builder, the people who construct the building, ah, identify to the Council they've reached that point in the construction phase and then an inspection is carried out to, to, ah, effectively audit, um, the, the work that others have done.

15 Q. And you've examined the Council ownership file and regulatory file relating to the period of the construction?

A. Personally I haven't.

Q. The inspections that you've referred to as taking place - do you say they took place in relation to the PGC building in the 1960s?

A. They would have done.

20 Q. How do you know?

A. Ah, I would assume that there's no gaps in the Council records otherwise those would have been identified to me.

Q. By?

A. Ah, by our legal counsel.

25 Q. For what purpose?

A. Ah, we did a full, ah, thorough search I think of the, um, of, ah, of our records and, um, I think, um, I know I need to identify to you but this is going back to the 1960s, ah, one would assume that, um, ah, everything that was needed to be done was done at that time. There's no
30 omissions that have been identified to me if that's what you're asking.

JUSTICE COOPER:

Q. Well I don't think it's going to help us if you proceed on the basis of assumption Mr McCarthy, I think we really want to know what you know

or can verify from checks that you have made. I think one of the difficulties we face here is that we don't have the, as I understand it, there isn't a copy of the building permit on the Council's records is there? I haven't seen a plan with a Council stamp on it saying this is the building, these are the plans that were approved, I assume that would be the practice of the Council to stamp plans in the 1960s if they were approved for the purpose of a building permit?

5 A. I would assume that would be the case Sir.

Q. Well have you seen the plans for this building that were so approved?

10 A. No I haven't Sir.

Q. Would you know whether they've been lost or not?

A. Ah, I don't but what I can, ah, describe to you is that, um, Mr Buchan who is a, um, a previous building engineer, ah, reviewed the file and, um, identified in a report to me that, ah, the building, um, that, that there were no omissions in what the Council had done. He was satisfied that the building had been, um, built to the requirements at the time.

15 Q. Well, Commissioner Fenwick's just handed me a copy of drawings which do have the Council's stamp on them issued on the 19th of March 1964, is that, does that...?

20 A. Yep.

Q. The difficulty with that is that you've told us in paragraph 9 that the permit was issued on the 24th of February?

A. Sometimes there's a difference between the time when it's issued and the time when it's actually uplifted by the, ah, by the applicant.

25 Q. Yes.

A. That may possibly explain that difference.

CROSS-EXAMINATION CONTINUES: MR ELLIOT

Q. Well it seems to be the case that the person with the most direct evidence of these issues is Mr Buchan?

30 A. It would probably be correct.

Q. Probably?

A. Ah, other people may have looked at the file as well but, ah, I would, I would expect that Mr Buchan would have the most intimate knowledge, yes.

Q. He's still with the Council?

5 A. Ah, he is employed by the Council.

Q. Have you inspected the Council file at all yourself?

A. Ah, personally no I haven't but I've, ah, certainly read the Beca report which contains many of the, um, much of the information that's on the file.

10 0953

Q. So if I was to ask you was there any evidence on the council file of any consideration of voluntary upgrade of the building as owner or earthquake risk of the building as owner you could not answer the question because you have not seen the file?

15 A. I have observed an Arrow report prior to the sale of the building which talked about the general capacity of the building, not in a structural sense, but otherwise I'm unaware of any, um, reviews of the building in that way.

Q. When was the Arrow report prepared?

20 A. I think it was prepared at the time of the sale, my belief, in 1997.

Q. At the council's request?

A. I'm sorry, I'm, my memory fails me on that point.

Q. I assume that report is available –

A. It would have been supplied to the Commission if indeed there is one.

25 Q. So when the council was asked to provide evidence on the compliance of the building as altered and maintained is that an issue that you have direct knowledge of by having referred to the council file yourself?

A. Extracts from the council file I have viewed, yes.

Q. And is that what you refer to in paragraph 11 and 12?

30 A. That's correct.

Q. And are you satisfied, having examined the file, that work carried out on the building was compliant with the code at the time?

A. The work in 1997 was not directed to the code. The work in 1997 I think as explained in the, in a letter from Holmes Group was a voluntary

upgrade of the strength of the building, um, and I think the engineer at the time observed that the, that a producer statement would not have been appropriate in that situation because it wasn't directly pointed towards a, towards compliance with the building code. It was a voluntary
5 upgrade of the building to increase the strength of the building, but the intent of that upgrade wasn't to take the building to 100% of the code requirements at that time.

Q. Was there a code issue in relation to the 2007 work in that it was an alteration and the building would need to be no less, have no less
10 structural integrity than before the alteration?

A. That would have been reviewed. That was reviewed I believe.

Q. You believe by having referred to the documents on the council file and satisfied yourself of that?

A. A consent was issued for that work so that's correct, yes.

15 Q. And a code compliance certificate as well?

A. Yes.

Q. Turning to the assessment of the building on the 5th of September 2010, if I could have document bui.cam233.0183. Your Honour that is tab 5 on the smaller bundle. This is the rapid assessment form that was
20 produced that inspection on the 5th of September?

A. Yes.

Q. And what happened was that a team of three went to the PGC building and stood outside and looked at it and then this form was completed, is that right?

25 A. They would have walked around the building as much as that were possible. It wasn't a matter of standing outside, it was a matter of doing a complete reconnaissance of the building and walking around it and observing if there was any apparent damage to the building from, ah, ah, an external view.

30 Q. This is one of the issues the council was asked to comment upon, namely the nature and extent of the assessments following September 4 and you have said that it was Mr Flewellen, was it, who signed this form?

A. That's correct.

Q. Is Mr Flewellen still with the council?

A. No he recently left.

Q. We may need to check with him but it appears that all that was considered was that the building was a concrete frame, commercial office, had five storeys and a floor area of 4500 metres and that factors such as the year it was built or any particular structural eccentricities were not considered, would that be right?

A. As much as a building, an experienced building official and a CP engineer can look at a building and observe if there is damage one would expect that they would look at any irregularities in the building and take that into consideration in this initial rapid assessment.

Q. Is that what they would have been instructed to do by the council?

A. Yes.

Q. Does the council have a record of the instructions that were issued to people who went out to do these inspections? A written record?

A. We have submitted a report to the Commission on the events post the 5th of September and articulated how we conducted the assessments. We, I think, have referenced it in that the building safety evaluation guidelines, the Department of Building and Housing gave us so, um, yes I believe that the people would have been well versed in how to do that. We had done training prior to the event and building officials had been engaged in that.

Q. We are having a hearing on this so I will not delve into it too far but my question which I am not sure that you have answered is, is there a written record of what people who were going out to the these inspections were told?

A. I don't think a word by word one but it's certainly identified in the report that they were given instructions prior to going out.

Q. Who gave the instructions?

A. Ah, we had Dave Brunson who was a USAR engineer and working on behalf of the Department of Building and Housing at that time who was assisting and he briefed all of the surveillance teams.

Q. It is relevant here you see because Mr Hare says in his brief of evidence that inspections were carried out in accordance with level 2 post RCI – Canterbury Earthquakes – 20111129 [Day 13]

earthquake inspection requirements taking into account the verbal briefings given by the Christchurch City Council civil defence in regard to what was expected from level 2 assessments so can you assist the Commission about what the content of those verbal assessments would have been?

5

A. I think I need to draw a distinction between the level 1 assessment that we have been, that is on the screen, and the level 2 assessments that were undertaken by Holmes Consulting Group and the Council was not directly involved in those assessments.

10 1003

Q. No, but just on the issue of assessments level 1 and 2, are you saying that there were verbal instructions given to those who went out and did them, but that they were different for each one?

A. Yes.

15 Q. And is there some way that you can inform the Commission about what people were told before going out and doing a level 1 or 2 assessment?

A. The level 1 assessments were an external evaluation of the building as much as possible, the level 2 assessments were both external and internal assessments, they were designed, the level 2 assessment is much more complex, it takes into account the interior of the building, it is a, it is looking for structural weaknesses and defects in the building that would drive the issuing of a placard to denote the status of the building.

20

Q. So were you at these meetings where Mr Brunsdon gave these instructions to people about the assessments?

25 A. Yes I was.

Q. And what you've just said to the Commission is that what you say was said at the meeting?

A. It was much more quiet. There was much more complex discussion around filling out the forms, there were power points, when we got to the level 2 assessments and this is the level 1 assessment on the board, but the level 2 assessments, there were power point presentations to the participants, and a very complex briefing explaining what the desired outcome was?

30

Q. Does the report that the Council has produced to the Royal Commission attach copies of the power point presentation and any other documentation that may have been used to inform –

5 **MR LAING ADDRESSES THE COMMISSION:**

If there's going to be detailed questioning about a report provided to the Commission, surely the best way to proceed is to have that in front of Mr McCarthy, it's a very lengthy report and I would expect that counsel assisting to have read that report. If he's going to be cross-examined on it
10 minutely it's a very large volume and it seems to be very unsatisfactory this should come down to some memory test when there's a perfectly good document that can be produced to the witness.

MR ELLIOTT ADDRESSES THE COMMISSION:

15 I accept that's a fair comment Your Honour. The report is referred to I think in your brief but I accept that, one should look to the report, perhaps I could just deal with it by asking if the report didn't produce that power point presentation if the Council could produce it Your Honour.

20 **JUSTICE COOPER:**

Q. Well I'm not sure whether it does or it doesn't, can you recall Mr McCarthy?

A. I don't believe that it's actually included.

Q. So can you find it and provide it to us?

25 A. Yes I can.

JUSTICE COOPER ADDRESSES MR ELLIOTT:

We will need to follow up on that Mr Elliott.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

30 Q. Mr McCarthy why would this level 1 form have been signed by a council officer rather than by the engineer?

A. It was a clear instruction at that time that a council officer would be part of the team, would sign the forms and would affix the placard to the building.

5 Q. Can I just ask for document ENG, CCC002F.78 please. So I think this is an attachment to the report which my friend Mr Laing has just referred to isn't it? Well I won't ask you that as you may not recall, hopefully you'll accept my word that it is. That's the green sticker that would have been placed on the PGC building, is that right?

A. That's correct.

10 Q. And you've heard some evidence about that yesterday, about the impressions that people in the building had about what the sticker placard indicated. The placard reads, "inspected, no restriction on use or occupancy," and then below that, "this building has received a brief inspection only. While no apparent structural or other safety hazards
15 have been found, a more comprehensive inspection of the exterior and interior may reveal safety hazards." Would you agree that the words "no restriction on use or occupancy," send a rather different message than the words that appear below it?

A. There has been some debate around that wording, it's clearly, we didn't
20 want to say this building is safe to occupy, I think the Department of Building and Housing, and IPENZ the engineers who designed these forms, resolved that this was the best wording at the time.

Q. Did the Council give any consideration to that issue of the wording
25 before going out and placing these placards on buildings such as the PGC?

A. Not specifically I don't think.

Q. And do you accept that a person would be entitled in the course of a
30 busy day going in or out of a building to see "inspected, no restriction on use or occupancy," and to read nothing more, having felt assured by those words?

A. I think included in that placard are the words placed on behalf of the Civil Defence emergency management controller, I have to re-emphasise I think what I said yesterday, that the state of emergency ceased on the 16th of September. These were placed in the two weeks

immediately preceding that whilst there was a state of emergency still in force. At that point the owners and the owners' engineers were largely responsible for the buildings and if the status of this placard was to change then we would have expected that they would have advised us of that. Subsequently the Government continued these placards. The effect of these placards for two months in the legislation and made those effectively notices under the Building Act, certainly in respect of yellow and red placards, the green placards didn't indicate any damage so they were - they were not continued but they were left on the buildings.

5
10
Q. You mentioned that the Council didn't want to use the words "safe to occupy." Why was that?

A. Because without a detailed engineering evaluation one wouldn't be able to glean that from the type of assessments being undertaken as a rapid assessment either level 1 or level 2.

15
Q. You've said in paragraph 6 that where a building received a green placard it wasn't the Council's general practice to undertake further inspections. Well this building, the PGC which was built in the 1960's and in which the Lim report noted that buildings built before 76 maybe potentially earthquake-prone. Wouldn't this be an example of where a practice of not undertaking a further inspection wasn't the best way to go about things?

20
A. In the context of the magnitude of what we were dealing with, we had to focus on buildings that were the highest priority risk and we did that. Our expectation was that the building owner and the engineer would serve what it says on this, which is to get further engineering checks made of the building. That's not to say that in some cases we didn't do level 2 assessments on some multi-rise buildings. All were aware that those level 2 assessments were being undertaken on multi-rise buildings.

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30 1013

Q. Was there any consideration within the council about perhaps identifying buildings built before 1976 and singling those out for a second inspection irrespective of whether the first inspection was a green placard?

A. We didn't give consideration to that in terms of pre-1976 buildings.

5 Q. You have given some evidence about the earthquake-prone policies of 2006 and 2010, this is in paragraphs 17 through to 20. There were some discussions about this in the earlier unreinforced masonry hearings but just to orientate people who might not have seen that, the position that the Building Act in 2004 defined the level below which a building could be classified as earthquake-prone as 33% of new building standard?

A. Yes.

10 Q. And there was some discussion at that previous hearing about whether that percentage is the best measure in all cases but again just so people can understand it, buildings must be built to a certain standard under the current code, must they not?

A. Yes.

15 Q. And the standard in force reflects a particular measure of force which a building should be capable of bearing?

A. That's correct.

Q. And so the current building must be built to at least 100% of that current standard?

20 A. Yes, that's correct.

Q. And you make the point in your evidence that according to Beca the PGC could withstand 30-40% of the force that a building built under the current standard could meet?

A. That's correct.

25 Q. So the trigger point below which a building may be earthquake-prone under the Building Act 2004 was 33%?

A. That's correct.

Q. And where below that the Building Act left it to each local authority to decide what its policy would be about such buildings?

30 A. Yes.

Q. And the council, Christchurch City Council, adopted an earthquake-prone policy in 2006?

A. Yes.

- Q. And the mayor of Christchurch has given evidence about that and described the approach of the council in that policy as a relatively passive approach?
- A. That's correct.
- 5 Q. And the Council's approach under the 2006 policy was to undertake an initial desktop review of council files to see what might be earthquake-prone and then do nothing about it until the policy was reviewed four years later unless an application for a building consent for alterations was brought by the owner?
- 10 A. Yes or a change of use.
- Q. So if the Pyne Gould building had been identified as earthquake-prone in 2006 for the purpose of the 2006 policy the owner would not have been required to undertake any strengthening unless there had been an application for a building consent?
- 15 A. For a building consent for a significant alteration or a change of use. The definition of significant alteration is contained in the 2006 policy.
- Q. You do not have the policy in front of you so please let me know if you are hampered by that? I will just ask you a question about it and I can show it to you but you may well know this because you gave evidence
- 20 about the policy a few weeks ago.
- A. Yes.
- Q. But am I right in saying that if there had been such an application for a consent for a significant alteration, an upgrade would only have been required if the building was less than 10% of code?
- 25 A. Yes, that's correct.
- Q. And even then the upgrade would only have been required to 33%?
- A. That is correct provided it was a significant alteration and the definition is of a significant alteration is an alteration that exceeds 25% of the rateable value of the building.
- 30 Q. And it was the 2006 earthquake-prone policy which the mayor of Christchurch said to the Royal Commission, obviously with the benefit of hindsight, seemed to be entirely inadequate?
- A. I don't recall him saying that but, um...

Q. You make the point in paragraph 20 that under the 2010 policy the PGC, were it still standing, would have been required to be strengthened within 30 years of notification of the owner of its earthquake-prone status?

5 A. Yes.

Q. So that that notification would come no earlier than July 2012?

A. That's correct.

Q. And strengthening could take place any time up until 2042?

A. That's correct.

10 Q. By which time it would be over 75 years old?

A. That is correct.

Q. And would you accept that that too also appears to be entirely inadequate?

A. It's consistent with the legislative framework that we're working in.

15 Q. Well the bereaved families and those who were injured would like to know that lessons are being taken from this so that another tragedy does not occur. Does the Christchurch City Council as former owner or regulatory authority have any comments about lessons that can be drawn from what has happened?

20 A. I believe that we are intending to make further submissions to the Royal Commission at a stage early next year on where, what we think could be done to make buildings safer throughout New Zealand.

Q. Will that include comments arising from the PGC building?

A. Yes.

25 **CROSS-EXAMINATION: MR HERON**

Q. Mr McCarthy, do you have a hard copy of that or you are relying on the screen?

A. I'll rely on the screen if you are able to bring that up.

30 Q. I hope we can cover this reasonably efficiently Mr McCarthy but I just want to cover the three owners of the building and you are aware that is Mr Collins, in effect his company, before him PGC and before PGC the council, right?

A. Yes.

Q. And we heard from Mr Collins yesterday, he owned the building from September 2009 through until it was destroyed. That is ultimately correct, am I right?

A. Yes.

5

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Q. And you talked about the due diligence that he did and we know that he produced for the Royal Commission the LIM and the Spotless report and the Building Services report some of which talked about the possibility of this building being earthquake-prone. Is that a fair summary?

10

A. Yes.

Q. Now he said it wasn't drawn to his attention those comments in the LIM or in the Building Services' report, am I right?

15

A. Yes.

Q. So he as a purchaser didn't go on and investigate the seismicity issues if I could call it that, is that fair?

A. That was his evidence yes.

Q. And going back then to PGC we've seen the efforts and we'll shortly hear from Mr West and Mr Hair about the enquiries that were undertaken, the reports that were obtained on their behalf and the work that was done by PGC am I right?

20

A. Yes.

Q. And this is only a summary so correct me if you think I've got it wrong but in essence PGC's architects Warren and Mahoney commissioned engineers Holmes to do a fairly detailed seismicity report, didn't they?

25

A. Yes they did, I think on two occasions 1997 and, ah, 2007.

Q. Well we can discuss the detail but –

A. Yes.

30

Q. – certainly the, the most detailed report we can see was 1997?

A. Yes.

Q. And Holmes told Warren and Mahoney this is what you must do for life safety?

A. Yes.

Q. Is that right?

A. Yes.

Q. And Warren and Mahoney told the Board of PGC this is what you must do for life safety, am I right, in that Board report of 30 May?

5 A. Yes, I'm following your line of reasoning and, ah, but, ah, the Council was not, um –

Q. Not, not –

A. – involved in –

Q. No.

10 A. – in, in any of that I have to say.

Q. Absolutely. I'm just summarising, and PGC took that advice and did what they were told to do, right?

A. Yes.

Q. And in fact that was a voluntary process I think you've said already?

15 A. Yes I have.

Q. Okay. And I just want to cover off the, the last owner and that's the Council, and, and you've said I think that ran from 1966 through to let's say 1996 or say '97?

A. Yes.

20 Q. So roughly 30 odd years?

A. Yes.

Q. And I just wonder if you were able or anyone was able to look back over the files and see what if any consideration about seismicity occurred during those 30 years if any, and I don't, this is not a criticism I'm just interested because it's not in your, your witness statement?

25

A. No it's not and I'm, I'm not, um, aware that that was – of anything on the property file that, ah, that considered that matter.

Q. And I'm not sure if there were any significant earthquakes during those 30 years that might have prompted it. There was a new Building Act I think around 1991 and perhaps new standards during those 30 years would you think?

30

A. Yes there were new standards, ah, particularly in 1976 when, um, there was a, a new standard derived yes.

Q. And so do I take it from your evidence that to the best of your knowledge and belief the Council as owner didn't reflect itself on, "Hey let's investigate seismicity in respect of this building"?

5 A. You're talking about two different organisations I guess the Drainage Board and the Council but, ah –

Q. Sure.

A. – there's no, there's no evidence that I have that they have considered that matter.

CROSS-EXAMINATION: MR HANNON – NIL

10 RE-EXAMINATION: MR LAING

Q. Just one question Mr McCarthy. You were asked a number of questions around the level 1 and level 2 assessment process and I think you stated in answer to a question that a Mr Brunsdon was involved in that process?

15 A. Yes. Yes he was.

Q. And I think you also said that you were present at least at some of those briefings?

A. Yes I was.

20 Q. Yesterday it was suggested to you that a conservative approach was appropriate to looking at buildings that maybe potentially earthquake prone. Do you recall that?

A. I do.

Q. Do you recall any briefing to do with the possibility of aftershocks?

25 A. At the time, ah, when I was asked that question I didn't, ah, recall but subsequently I have, um, ah, spoken to, or I have communicated with someone who was present at those hearings and, ah, he confirmed for me –

JUSTICE COOPER:

30 Q. Mr McCarthy you've said somebody who was present at those hearings?

A. Oh, I'm sorry not the hearings, at the, um, at the presentations, the briefing given to the surveillance teams.

Q. Yes.

5 A. My apologies for that Sir. And he confirmed that, ah, the surveillance teams were asked to consider the possibility of a, of a further aftershock in their evaluations of the buildings so they were asked to take a prudent approach and to consider the possibility of a large aftershock. So I think that is a conservative approach that was adopted.

10 **JUSTICE COOPER TO MR LAING:**

Q. It's pure hearsay. We've got a report from Mr Brunsdn who'll be giving evidence before us, I'm not sure, I mean if you expect this evidence to be of value to us it's falling a bit short.

A. Yes sir, I appreciate that and I won't be taking it any further.

15 Q. I mean can we have the name of the person who's been spoken to - would that help us.

A. Yes it would do.

RE-EXAMINATION CONTINUES: MR LAING

Q. Can you tell us the name of the person that provided you with that -

20 A. Yes it was Dean McNulty.

JUSTICE COOPER:

Q. Right.

A. He was working very closely Sir with Mr Brunsdn at the time.

25 **MR LAING:**

Yes sir I'm not taking that any further and I totally accept that's the case.

JUSTICE COOPER:

Yes.

30

MR LAING:

That the – and that, that concludes my re-examination. I will say that I will get the power point presentation produced.

JUSTICE COOPER:

5 Thank you.

MR LAING:

It was referred to in the Council report that's probably been provided to the Commission.

10

JUSTICE COOPER:

Yes.

15 **MR LAING:**

So it wasn't a deliberate omission.

JUSTICE COOPER:

No, no. No.

20

MR LAING:

Thank you sir.

JUSTICE COOPER:

25 Q. Now Mr McCarthy, I wonder if, we'll see how the system's feeling whether it's going to work for this but I'd just like to go back to the land information memorandum for the PGC building which is WITCOL0002.13.

WITNESS REFERRED TO MEMORANDUM

30 Q. It may start earlier than that but actually I'm interested in pages 2.14, 2.15. Do you recognise this document and can you read it?

A. I'm struggling to read it Sir but, ah –

Q. Yes.

A. I have seen it in the record.

Q. Right, could we just enlarge the last bullet point on that page please. There's a statement there, "Earthquake Prone Building 1. Potentially earthquake prone. Due to changes to the definition of earthquake prone buildings in the Building Act 2004. Council's current records do not fully identify all buildings which may be potentially earthquake prone". Now can you just explain the heading to me, "Earthquake Prone Building 1. Potentially earthquake prone", what's the message being conveyed there?

1033

10 A. I think the message is that the owner needs to further research that topic in their own right. We're not able to fully determine whether the building is, ah, whether buildings are earthquake-prone or potentially earthquake-prone fully ourselves so I think there's a clear message to the owner or the purchaser that they should undertake further research.

15 Q. Was this some standard piece of information that was put on Land Information Memoranda by the Council?

A. It would have been put on to any pre 1976 buildings.

Q. So somebody seeks a Land Information Memorandum, the Council checks from its records as to the dates when the building was constructed and if it's pre 1976 it puts advice such as this in the Land Information Memorandum. Is that...?

A. That would be correct.

Q. And although the heading says, "potentially earthquake-prone" the actual wording says, it simply says, "Council's current records do not fully identify all buildings which may be potentially earthquake-prone." So it's not saying potentially earthquake-prone there. It's saying *may be* potentially earthquake-prone. What was the thinking there?

25 A. There may be buildings that post 1976 which might have been earthquake-prone for some reason one would expect but certainly what we're saying there is that we didn't have any accurate records of earthquake-prone buildings or potentially earthquake-prone buildings. That can only be derived from a much more detailed assessment of buildings.

30

Q. All right, okay, so if we could go to the next page please and highlight the first two bullet points on that page. There we have in the first bullet point – “Earthquake Prone Building 2 Assessment” – Applicants are advised to engage a structural engineer to assess the building to determine the significance of this information”. Now can you explain the heading, “Earthquake Prone Building 2 Assessment”?

A. I think the previous notation would have been one.

Q. It was. That’s what we’ve just been looking at.

A. Yes, and this is the second point that follows the first point being that we don’t have accurate records so we would suggest that a structural engineer be engaged to review the buildings. That would be the implication that I would take from that notation.

Q. All right well then in the wording that follows it says, “Applicants are advised to engage a structural engineer to assess the building to determine the significance of this information.” What is this information do you think in that sentence?

A. This information is the first point that we previously looked at which is we do not have accurate records, um, and you need to do further research yourself to establish whether the building is earthquake-prone or not.

Q. All right well then we have “Earthquake Prone Buildings 3” in the next paragraph, “Up-grade”, and that tells the recipient of the memorandum that the effect of a change is that “buildings built prior to 1976 may need to be assessed against the requirements of the Building Act, requiring building strength to be one-third of the current building code.” Now is the change that’s referred to there, the Building Act 2004, is that what that’s addressing?

A. Yes it is. Prior to the 1991 Act defined an earthquake-prone building only as unreinforced masonry buildings. The 2004 Act was much more comprehensive in defining what might be an earthquake-prone building and you can see the effect of that is reflected here in this notation so people are being advised of the change and I have to say that a prudent purchaser of a building would take cognisance of that notation.

Q. The Council didn't have a policy of requiring buildings to be up-graded to thirty three percent as a matter of course did it?

A. Not at that time Sir.

Q. And the Building Act didn't require that as a matter of course did it?

5 A. No it didn't. That situation, of course, could change over time and that was clearly the intent of the Act.

Q. Right, well these statements that we're looking at on this page are again they convey the impression to me as just being general statements that the Council was putting on Land Information Memoranda as a routine
10 matter of course with respect to buildings built prior to 1976. Is that right?

A. Yes but important notations Sir.

Q. Just going back to the building permit for this building. In the consultant's report prepared by Beca, Carter, Hollings and Ferner
15 Limited for the Department of Building and Housing it's said that they hadn't been able to locate design calculations or the application for building permit and notwithstanding the plans to which I was referred by Commissioner Fenwick which have the Council's stamp on them, is it the case that the actual building permit itself has not been able to be
20 found. Do you know that?

A. Perhaps at the time that it was requested by Beca's it wasn't bound but it might have been subsequently. I'm a little unsure on that point. I'm not certain I can assist you.

1043

25 Q. In the Beca report it said that it appears that construction did not commence for about three years after the structural drawings were signed by the structural engineer. There is conflicting information as to when the building permit was itself issued but it looks like either February 1964 or March 1964, but then apparently a three year period
30 elapsed before construction commenced. Now do you know, I am wondering how that would occur because, do you know what the bylaw provision was at the time?

A. Not specifically but I think it was only in the 2004 Building Act that the tenure of a building consent was established insofar as you must

commence building within one year of actually receiving the consent, um, you can apply for an extension but the work needs to be completed in two years.

Q. Yes.

5 A. I don't believe that had ever been the situation before in terms of building permitting or building consenting.

Q. Was it not the case, and if you do not know just tell me, but although the Building Act had time limits in it for the first time in 2004 was it not the case that when the PGC building was permitted bylaws actually
10 contained provisions as to the period within which work must commence?

A. I'm sorry I don't know the answer to that.

Q. What makes these points perhaps more than academic is that there was a new standard that came into force or was adopted in July 1964.

15 A. Yes.

Q. Which on the face of it would be after the building permit was issued?

A. Was issued and probably uplifted.

Q. Yes and well before it was implemented so the question then becomes what were the implications of that for the permitted plans? You really
20 cannot answer any of these –

A. No I can't.

Q. – questions?

A. Sorry.

FURTHER CROSS-EXAMINATION: MR MILLS

25 Q. I thought this had been clarified before but just in case it wasn't. I think you gave a date in response to me as to when this process was undertaken that led to this data going on to the LIM report, do you know that and could you repeat that? I did not ask you that before, could you tell us now?

30 A. Ah, I believe my response was in 2005-2006, in that period.

Q. Yes that is what I thought you said. Thank you very much.

JUSTICE COOPER:

Q. Mr Laing, did you have something you wished to ask Mr McCarthy?

A. If it helps the Commission I am happy to do some, perhaps some further enquiries.

Q. Yes.

5 A. Your Honour, there is of course a difference between when a standard might have been promulgated and when it would be adopted by a change to the bylaw and I know from looking at the bylaw records and I cannot be specific about this time but there was often a time lag between when a local authority would receive a new standard and when it would get around to adopting it. I cannot be specific about this –

10 Q. Well something I have seen suggests that that might have been adopted in 1966 –

A. By the council?

Q. Yes.

A. Yes, well that –

15 Q. But we have been waiting for a few months now for a report from the council setting out the history of its bylaw adoption and unfortunately this hearing has occurred before that report has been provided so.

A. So you have a draft of it?

Q. Do we?

20 A. Just quite recently.

Q. When was that?

A. Last week.

Q. I have missed that somehow.

25 A. I still am concerned that because of the difficulty of obtaining records and the massive amount of searching that has had to go on it is still not complete. I certainly would not (inaudible 10:48:50) before you and say it was complete but it is there.

Q. Yes.

A. It certainly –

30 Q. Well what I would be grateful Mr Laing is if this issue, the preparation of that document can take its course but I would quite like to know precisely what the authority for this building was. What rules applied when it was being built because in the Beca report there is speculation about that and there should, it should not be an area that requires

speculation because one would think that, well at least insofar as the key dates on which regulatory rules changed, that should be, there should be clarity about that.

A. Yes.

5 Q. So if you could let us know what the story was with respect to the PGC building?

A. Yes.

Q. What applies, I suspect in the bylaw there would have been power for the engineer to extend the commencement date.

10 A. Yes.

Q. And so we may never know here because the records do not appear to exist and the actual permit itself, as I understand it, has not been found.

A. No.

Q. There are plans with the council stamp on them but there is not –

15 A. Yes, the record I have when it was issued was February by the way, not March.

Q. Well the only plans we have got with the council stamp on them are March plans so that would not, that is disconnect there as well unless they were immediately amended?

20 A. Yes, it may have been an issue. There was a process saying permit is ready to be issued and that might explain that discrepancy as Mr McCarthy has indicated.

Q. Well the practice in those circumstances would not be to stamp them when somebody came in with a cheque would they?

25 A. Well certainly you go through the process of reviewing the building permit information and approving it, indicating that it is ready to be uplifted. It would not be uplifted until the fees were paid.

Q. Right.

A. So it is possible –

30 Q. That might explain it.

A. – that might explain it. I cannot be definitive about that.

Q. But we do not have the document that would have expressed conditions, probably start dates?

A. No.

Q. Other rules and all those things?

A. No.

Q. That documents seem, what I would call the permit does not appear to be able to be found, is that right?

5 A. I believe so but I think I will go away and do a complete review of this –

Q. Well I would be grateful.

A. – memorandum about it.

Q. Thank you.

JUSTICE COOPER ADDRESSES MR HERON

10 Q. Do you want to make any opening statement Mr Heron?

A. No I do not Sir, beyond I think Sir what is already obvious that PGC took its obligations both in respect of the building and its employees very seriously. It has taken this Commission and the requests you have made through counsel very seriously and you will hear and see the product of that.

15

A. Thank you.

1053

MR HERON CALLS

20 **COLIN HAIR (AFFIRMED)**

Q. Could you tell the Commission your full name please?

A. Colin (inaudible: 10:53:37) Hair.

Q. And your occupation?

A. Company Secretary.

25 Q. And who's that for?

A. Company Secretary of Pyne Gould Corporation.

Q. How long have you held that position for?

A. Ah, 15 or 16 years.

30 Q. And do you have with you your witness statement in respect of this Royal Commission?

A. I do.

Q. I want to refer to that. Members of the Commission do you have that available to you? If you could read please from para 2 and, Sir, would you mind just from time to time there may be the odd thing that I ask just

to be taken as read. For example there's a long list of documents.
Thank you Mr Hair, para 2.

5 A. I have been employed by PGC since 1994 and during that time have
held the following roles. From 5th September 1994 to the 31st of
December 2005 Group Financial Controller and Company Secretary
and from 1 January 2006 to the present, Company Secretary. I was
therefore employed by PGC at all times during its ownership and
subsequent tenancy of the building at 233 Cambridge Terrace. My
responsibilities in my current role include ensuring compliance by PGC
10 with legal and contractual requirements, investor relations and
Corporate record keeping. I am authorised to provide the brief of
evidence of behalf of PGC.

Scope of this Brief: I submit this brief in response to the Commission's
request dated the 17th of October 2001 –

15 Q. 11 I think.

A. Sorry, 2011.

Q. And you can skip the references to exhibits.

A. So would you like me to go through to...

Q. Just carry on from "seeking..."

20 A. Seeking a brief of evidence from an officer of the company who can
provide direct evidence of the state of the PGC building at the time it
was purchased by reference to documents such as pre-purchase
assessments, the state of the PGC building at the time it was sold and,
thirdly, the work that was carried out on the building during its period of
25 ownership and in particular the work arising from the seismic
assessment carried out by Holmes Consulting in 1997. As noted at
paragraph 3.8 of the document – Informations from the PGC Group
submitted by the PGC Group to the Department of Building and Housing
and the Royal Commission, Holmes Consulting Group advised PGC
30 that certain columns should be strengthened. See, for example,
Holmes' letter to Warren and Mahoney dated the 17th of February 1997
and Holmes' fax to William Fox dated the 25th of March 1997.

Q. Just pause there Mr Hair. The Commissioners will no doubt be aware that PGC gathered together a whole raft of information on the building and provided it and that's what referred to there.

5 **MR HERON ADDRESSES JUSTICE COOPER**

I wonder Sir whether we could take as read the request from the Commission as to documents [Yes] and the search that Mr Hair has undertaken [Yes] and the list of all the documents that he has then provided. [Yes].

EXAMINATION CONTINUES: MR HERON

10 Q. If you can pick up at para 8 please.

A. Of these documents, documents CH23 and CH 5-13 were retrieved from PGC's own records which includes PGC's file relating to the purchase of the building and all Board papers and Minutes for the period during which PGC owned the building. However, many of PGC's records were lost or destroyed in the earthquakes. Accordingly PGC has made requests of third parties for any documents that they may have which fall within the categories requested. Documents CH4 and CH15 were provided to PGC by Holmes and Lane Neave respectively in respect to requests by PGC.

20 Q. And just pause and we'll hear from Mr West the specifics of those requests for example to its lawyers etcetera. Carry on please from 10.

A. I refer to some of these documents below in describing to the best of my knowledge the matters set out at paragraph 5 above.
Acquisition and renovation of the building by PGC in 1997 – PGC acquired the building from the Christchurch City Council on the 14th of January 1997. Shortly after this PGC undertook a refurbishment of the building. At that time I was the Company Secretary and in that capacity attended Board Meetings to take the Minutes. Besides the Managing Director I was generally the only member of management who regularly attended Board Meetings. The Board delegated management responsibility for refurbishment to the Managing Director at the time, Richard Elworthy, now deceased. Mr Elworthy engaged William Fox, now also deceased, to project manage the refurbishment. Mr Fox was

a former employee of Warren and Mahoney, the architects who designed the refurbishment. A Board Meeting was held on 30th of May 1997 to discuss, amongst other business, the refurbishment. The Minutes of that meeting are annexed and marked CH9 – Minutes.

5

MR HERON ADDRESSES THE COMMISSION

You might wish if you have access to that 30 May Minutes just as Mr Hair continues. [Ref: Page WIT.HAI.001A.43]

10 **EXAMINATION CONTINUES: MR HERON**

Q. I interpolate here Mr Hair. These are the Minutes of the Board Meeting that considered the Warren and Mahoney Board Report which you are about to refer to. Am I right?

15 A. Yes that's correct, an extract of the Minutes because as you notice it's the first two items then it goes through to Item 7 which covered the renovation of the building.

Q. If you carry on then reading from 15.

A. Warren and Mahoney prepared a Board Report on the refurbishment dated the 30th of May 1997 which was tabled at the Board Meeting.

20 The Board Report – A copy of the Board Report is annexed and marked CH10. The Board Report contemplated at page 12 of the report seeking the Board's approval of the costs of refurbishment at the 30th of May 1997 Board Meeting and attached an itemised estimate of costs. It is noted at paragraph 7 of the Minutes the Board resolved that the
25 refurbishment of 233 Cambridge Terrace at the planned costs plus the additional cost of \$41,770 for wool carpets be approved and that the Managing Director be authorised to proceed with the letting of contracts for that refurbishment. Under the heading, "Structural Strengthening",
30 page 8, the report stated, "Prior to purchase of 233 Cambridge Terrace, Holmes Consulting Group provided preliminary structural comment on the structural adequacy of the building with respect to Code obligations and anticipated performance of structural elements under seismic loading." Since this report they have commissioned and prepared a

more detailed structural analysis using computer modelling and have reported their findings and recommendations for strengthening work. I presume that the preliminary structural comment and subsequent detailed structural analysis referred to by Warren and Mahoney are the letter from Holmes Consulting Group to Warren and Mahoney dated the 5 17th of February 1997 and the seismic evaluation of existing building, April 1997 Revision 0, by Holmes Consulting Group which are exhibits CH2 and CH4 respectively. Holmes also prepared an interim report preliminary analysis dated the 25th of March 1997 for Mr Fox which is 10 exhibit CH3. I have searched PGC records but cannot find any record of these documents having been provided to the Board either at the meeting on the 30th of May or at any other time, nor can I find any record of the seismic evaluation having been provided to PGC at any time prior to the 21st of July 2011 when it was provided by Holmes in 15 response to PGC's request on 1 June 2011, for a copy of Holmes' files on the building.

EXAMINATION CONTINUES: MR HERON

Q. Just pause there Mr Hair, so as best you can tell, going back as far as we are I know, but the information from Holmes fed into Warren and 20 Mahoney and they produced this report that ultimately the Board saw?

A. Yes, that's right.

Q. Paragraph 20.

WITNESS CONTINUES READING BRIEF

A. The board report notes on page 8 that Holmes' recommendations fell 25 into two categories: one, those considered imperative to preserve life safety in the event of a major earthquake, and two those recommended as damage reduction measures. The Board report states, "Only the strengthening work considered necessary to preserve life safety has been adopted and the documentation for this aspect is nearing 30 completion." In the interim report Holmes advised that the work necessary to preserve life safety was, life safety, the 16 inch diameter gravity columns at ground floor needed to be jacketed with structural steel, or alternatively a composite fibreglass kevlar wrap. Life safety,

the upper level 10 inch square columns need either to be jacketed as above or to have secondary structural support provided. This could take the form of concrete grouted steel tubes or RHS members. Ideally these would be located on the grid junctions over the 16 inch diameter columns but this may conflict with the general wall cladding line and the first floor fit out. Alternatively these columns could be located immediately behind the existing columns outside the general cladding line but there would be waterproofing and egress issues to consider. As discussed WJF/HJH20/ the third.

10 **EXAMINATION CONTINUES: MR HERON**

Q. Now that refers to I think a discussion between Mr Fox and Mr Hare of Holmes do you think?

A. Yes I think that is the case.

Q. And just for those of us who may not be familiar with all those references to columns, the first life safety aspect concerned the 16 inch diameter gravity columns. Now these were round columns on the ground floor, am I right?

A. Yes, the building fundamentally stood on columns to the first level and originally when PGC bought the building it was actually just standing on those columns and underneath cars parked and then above that was where the five floors of the building were, four floors of the building were.

Q. Right.

A. First to the fourth.

Q. And then the next life safety aspect talks about upper level 10 inch square columns and I'm not sure if we've got an easily available column, but you know the building well, it's from the – thank you, that's very helpful, if you just look at that, the square columns therefore are above the name and to the top?

A. Yes, that's right.

Q. And they're actually on the outside of the building, they're slightly further outside if I can put it that way than the round ground floor columns. Is that correct?

A. Yes. That's right.

Q. So I think you're at 23 now?

WITNESS CONTINUES READING BRIEF

5 A. As part of the refurbishment, PGC implemented Holmes' advice in relation to life safety as described in paragraph 24 to 29 below. The plan cost referred to in the resolution recorded at paragraph 7 of the minutes of – is the Tomlinson and Partners preliminary cost plan revised 28th of May 1997, annexed to the Board report. The cost plan provides for amongst other work, column strengthening on page 1 under the heading, 'General Construction.'

10

MR HERON ADDRESSES THE COMMISSION:

Now just pause there if I may, Your Honour, just one query, in the paragraphs that follow - 24 through to 29, Mr Hair then details the accounting and other documentary records which establish that this work was done. Now I'm not sure if you want me to go through all that, or can we –

15

JUSTICE COOPER ADDRESSES MR HERON:

I think you should.

EXAMINATION CONTINUES: MR HERON

20 Q. If you carry on thanks Mr Hair.

WITNESS CONTINUES READING BRIEF

25 A. Next to this it is noted, includes quoted prices for one \$71,344 from JAC Constructions for interior strip out, including block walls, exterior balustrade and new column strengthening. I have located the relevant quote from JAC Contractor which is dated 21 April 1997 in annex marked CH6. Quotation C on page 3 provides, 'supply fit and fix secondary mild steel support posts to perimeter columns, first floor, second floor, third floor and fourth floor all in accordance with Holmes Consulting Limited's details and further verbal instructions. Eighteen number posts on four levels equals 72 posts total. Supply of steel work by Pegasus Engineering Limited, the lowest price.' I have located the relevant quote from Pegasus Industrial Engineering Limited for the

30

supply of 72 200 by 100 by 9 RHS posts a copy of which is annexed and marked CH5. PGC no longer has the creditor payment files for this period. We do have an analysis of the renovation expenditure completed by Price Waterhouse Coopers which shows as a separate line item in schedule A1, steel columns \$35,384 and a copy of the general ledger which records payments to JAC Contractor. A copy of the Price Waterhouse Coopers letter is annexed and marked CH12 and a copy of the general ledger is annexed and marked CH13. As part of the refurbishment PGC also carried out the first of the two Holmes recommendations in respect of life safety ie jacketing of the 16 inch diameter ground floor columns. This work is not expressly referred to in the Board report, however I believe it is covered by the term column strengthening in the cost plan attached to the Board report. This is consistent with the fact that only the additional cost of damage reduction measures was listed under the heading, 'Additional options not included in cost plan above,' in the cost plan. No further life safety measures were listed there. As I understand the Beca report investigations into the collapse of the Pyne Gould Corporation building on the 22nd of February 2011, dated the 26th of September 2011, and its appendices, the only floor of the building which had columns of this diameter was the ground floor. In the Hyland report under the heading, 'Examination of Remnants of Structural Components,' there are references to two columns of approximately this diameter both of which were steel jacketed.

25 **EXAMINATION CONTINUES: MR HERON**

Q. And just to interpolate there, it's really from that material that you can say with as much confidence as you can that both the square column life safety matter we know was completed and the round column life safety matter was also completed by PGC?

30 1113

A. Yes, that certainly seems to be the, the case from, from the paper work which we've been able to relocate.

Q. Para 30?

WITNESS CONTINUES READING BRIEF

A. “During PGC’s ownership of the building in my capacity as company secretary my responsibilities including overseeing the maintenance and compliance of the building akin to a building manager. I coordinated
5 maintenance work on an as required basis and ensured that the building’s warrant of fitness remained current. In or about 2007 the then managing director Brian Jolliffe commissioned a study by Warren and Mahoney on the development potential of the site and the building. Warren and Mahoney duly reported back with a number of potential
10 concepts. Ultimately, however, management considered these were not economically viable and the report was not presented to the Board. None of the concepts went beyond the design stage. In or about 2007 PGC undertook a reconfiguration of the ground floor so as to create more space for PGC which at that time occupied part of the third floor and more economically utilise tenatable areas. This freed up
15 tenatable space on the third and fourth floors allowing the Education Review Office and Marsh to lease the entirety of the third and fourth floors respectively whereas previously they had each leased half of each floor. During its ownership of the building PGC made various
20 changes to the fit out and internal layout including for example installing air conditioning throughout the building with the exception of the first floor and part of the fourth floor which already had air conditioning. However, besides the reconfiguration described in paragraph 32 above, that’s the recreation of, in 2007 of the ground floor, I am not aware of
25 any further structural work being required or carried out on the building during PGC’s ownership. In March 2009 cracks appeared on some columns. Holmes inspected and reported on these cracks. PGC instructed Holmes to carry out the required repair work. Annexed and marked CH14 is correspondence between PGC and Holmes in relation
30 to this work. In 2009 the Board resolved to sell the building. At all times throughout its ownership PGC had maintained current building warrant of fitness. Prior to sale PGC sought to obtain a fresh warrant of fitness but was advised by its advisors Firefighting Pacific that the legislation would not allow a new warrant of fitness to be issued that far in advance

of the due date. Firefighting Pacific accordingly provided statements of compliance certifying that the building was compliant as at August 2009. Annexed and marked CH15 is a copy of the letter from Firefighting Pacific to PGC dated the 19th of August 2009 which enclosed the statements of compliance.”

5

Q. Thank you, you needn't read the last paragraph. Could I just ask one further matter. In Mr West's evidence that he's about to give he refers to some activities you were involved in after the Boxing Day earthquake and Sir this is at para 40 and 41 of Mr West's brief. Thank you, and I'll just quickly read through this Mr Hair and if you could just comment and confirm or otherwise. Mr West lists that "Colin Hair reported the following damage to the ground floor and lists exterior window frames separated out from interior window frames leaving a small gap". Oh that's very helpful, thank you. You can just read that through there 40 and 41.

10

15

WITNESS REFERRED TO PARAGRAPHS 40 AND 41

A. Yes. Yes I confirm that I did what happened in 40, yes I did arrange for Harcourts to, um, to have the, an engineer inspect, inspect that and I, and the engineer did provide a, a hand-written report, ah, which he gave to me at the time but that was a document then subsequently lost in the building.

20

Q. Do you have any idea of the date that you were given that document?

A. No I think that was, it was later, lateish in September, towards the end of September.

25

Q. Sorry, this was talking about the post Boxing Day, after the Boxing Day earthquake?

A. Oh sorry it's the Boxing Day earthquake.

Q. Yes.

30

A. Yeah, well, yeah by the time we, that's right because it was the Boxing Day, it was the Boxing Day earthquake which resulted in the windows, ah, popping out from, from the building frame, it actually, that reference is actually is to my office, um –

Q. Don't worry if you don't recall?

A. No I don't, I don't really recall I can only just, I can only just sort of say you know by the time we, we returned from, from work, ah, returned from holiday it would have been towards the end of, towards the end of January.

5 Q. Okay.

A. Logic would say.

COMMISSION ADJOURNS: 11.19 AM

COMMISSION RESUMES: 11.40 AM

CROSS-EXAMINATION: MR MILLS

10 Q. I just want to ask you some questions that came out, that come out of the evidence given by Mr McCarthy this morning Mr Hair. Were you here this morning when he gave his evidence?

A. (No audible answer 11:40:15)

15 Q. It's - the questions I just want to ask you about relate to the evidence he gave about the LIM. You recall the questions that were put to him about the land information memorandum?

A. Yes I do.

20 Q. Now he said that the, that that entry on the LIM that you would have seen earlier on which as I understand his evidence said that the Council put that on every building built prior to 1976, that that entry went in in about 2004, 2005. That was during the period that Pyne Gould still owned the PGC building of course wasn't it?

A. Yes it was.

25 Q. And he said that the, in response to a question from His Honour who asked what the message was that that LIM was giving, it was to the effect that owners needed to do further research on their pre 1976 buildings. Now of course what I'm interested in from you is whether you were aware of that entry on the LIM at any stage?

A. No I was not.

30 Q. So is it your position that during the period from, let's assume it went on in 2004 through to the sale of the building in 2009 that there would have

been no cause at all to look at the land information memorandum applicable to the PGC building?

A. No I don't think there was.

5 Q. No relevance when the building consent was sought from the Council in 2007 for the further work that was done?

A. Well that, um, consent was sought by Warren and Mahoney and so I didn't, didn't see their request - was only then made aware subsequently that consent had been granted.

10 Q. Well we'll ask the Council outside of this hearing - doesn't need to be done now about - whether they advised the building owners when they put those entries on the LIM and if anything emerges from that then we can come back to this?

15 A. I would say, of course, that the, that the, the building, the building file covering that period would have been lost, was lost in the building in the earthquake so whether, ah, correspondence of that nature had been received and put on the file on our building file as I say I haven't been able to retrieve that so...

20 Q. Who would it have been at Pyne Gould during this period who would have been most likely to be made aware of that sort of advice or correspondence about the LIM and this entry on it if it had come?

A. I would.

Q. You're the one.

A. Yes I would've yes.

Q. But you don't currently have any recollection of this?

25 A. No I don't.

Q. I just want to put to you a few other issues around the chronology that relate to this to see if any of this might trigger any recollection. Were you aware of the fact that in 2004 a new Building Act came into force?

A. Yes I think so yes generally yes.

30 Q. Were you aware of that - that that, were you aware that that contained provisions in it about earthquake prone buildings?

A. No. Not the, not the detail of it.

Q. Were you aware at a level of generality that it contained such provisions?

A. Yes.

Q. And what was your understanding of what those provisions did?

A. Well just generally that, that it affected, ah, some buildings of, of an age that may need to be re, reassessed for their structural, um, integrity and risk.

5

Q. And did you give any thought to whether the PGC building might have been of that age?

A. Not from the point of view of, of age but more from the point of view of, ah, discussion, general sort of discussions with Warren and Mahoney, Holmes Consulting, um, when we were doing, um, alterations to the interior sort of fit out from time to time whether there was any, anything further that needed to be, needed to be done.

10

Q. And what was the upshot of those discussions?

A. There was, we were never, we never advised that any, ah, structural changes needed to be undertaken.

15

Q. Were you aware of the fact that in 2004 as well there were new building standards that came into force that would have required strengthening of various structural elements in buildings?

A. No.

20

Q. If you were building new?

A. No.

Q. I want to take you now to a document which I hope I've got the right reference for and that we can find it. It is VUI.CAM233.0021 and it's page 1 and then page 2 that I'm interested in. This relates to the 2007 work that was done on the building which you've made reference to in your own evidence.

25

WITNESS REFERRED TO DOCUMENT – TAB 6

Q. It's at tab 6 in that spiral bound bundle that you've got Commissioners. Now you've got that in front of you don't you? Have you seen this before, I think you said, may have said in your evidence that this is one of the documents that you still had in your files?

30

A. No this was one of the documents which we obtained from Holmes Consulting on, on request.

Q. And was that requested on the basis that you were trying to rebuild your own files?

A. Yes.

5 Q. So this is a document that would have been in your files and you were retrieving it?

A. No, no, no, no because if you actually look at that you see it's, it's addressed to Ian Bisman at Warren and Mahoney.

Q. Yes.

A. From John Hare.

10 Q. Yes.

A. At Holmes Consulting, PGC, um, is not named on that document.

Q. I appreciate that but what I'm asking you, well let me put it differently, when you were obtaining these documents that weren't in your own files what is it that you were asking for?

15 A. We were asking for generally files from Holmes Consulting who had carried out a number of inspections of the building post the earthquake so effectively we were asking for copies of reports which we knew they had had, had carried out on inspecting the building. That one I referred to earlier was, was, was a case in point when they inspected the ground
20 floor where I was located.

Q. So it wasn't specifically documents that you might have once had but had lost in the building collapse?

A. No.

25 Q. But do I take it that because you did lose most of your documents in the building collapse that it's possible that you might have had a copy of this in your own files?

A. I don't – yeah, I don't think so I certainly don't – because I don't recall this, this report at all.

Q. You –

30 A. I recall, I recall the report, there is a report in our file which is the report prepared by Warren and Mahoney for the managing director.

Q. Yes.

A. And in that report this, this, um, memo is not included.

Q. Yes so the issue was in the files but you don't think this particular memo was in the file?

A. That's right.

5 1149

Q. All right well let me just ask you then a few questions about it. If I just give you a moment perhaps, well let me take you through it, that might be the most efficient way. As you said it is a report from a Mr John Hare at Holmes to Ian Bisman at Warren and Mahoney and they say that this is option A that they are talking about and option A, as I understand it, was to add some additional floors to the building and then over the page, if we can have the next page which is 2 on our numbering system, you will see there that there is option B new adjacent structure and if you go down that page you will see this little subheading 'Existing structure' and what is said there which I want to draw your attention to, is this. "The existing building has an unusual structural form that may work to our benefit. The columns step across at the first floor to create the structural set back that is part of the existing architecture. This is a severe weakness seismically as this discontinuity has the potential for severe failure." The report then goes on to say, "But it has got some advantages which we might be able now to take benefit from." Was anything like that concern, 'severe weakness seismically' conveyed to you?

15 A. No.

25 Q. It was not? So this is all complete news to you to find this?

A. Yes it is.

Q. I want to go next to document bui.cam233.0019.1. There is another document before this but this will do I think. You will see that this is a handwritten memo from John Hare of Holmes again to Ian Bisman at Warren and Mahoney and it again relates the 2007 consideration of what to do for the building. Agree with that?

30 A. When you say consideration of what to do?

Q. Yes.

A. What could be done I think is more the point.

Q. All right. I accept that, and the subject here is as it says option D. Again I do not know whether you have got any memory of this or were involved in this but you will see that it is implicit in this I think that Warren and Mahoney had come back with a request that a further option be looked at beyond those that we were looking at previously, and this is option D and so John Hare is responding to this saying, "Attached are updated plans for the further option that you asked for with the low height addition at the rear." And he goes on to say, "It does not work as well as the other one structurally, et cetera." Now were you involved at all in discussions with Warren and Mahoney about this further option that was being now put before, or had been put in front of Holmes for them to evaluate it?

A. No, if you go through the way this process worked, the Pyne Gould Corporation in Auckland had a couple of joint venture properties with a developer whereby he developed the property and then managed it and PGC through MARAC provided the funding. The then managing director had discussions with that developer with a view to seeing whether the existing PGC site in Cambridge Terrace could be redeveloped into a larger more modern office building and I think what you will find is that option D is just another variation on that and probably looking at it as a, talking about lower, so perhaps a lower cost because effectively the end result of all of this was, I think there were about five or six options, and in the report from Warren and Mahoney they just weren't economic. The returns didn't justify the expenditure on them and that's why the report went no further. So I would think this option D was an interim step to say can you produce something of a lower scale which might be economic and therefore viable to proceed with.

Q. And would these issues have gone at all to the board?

A. No they didn't, on the basis that it was not economic it was not sent up to the board, there was no capital expenditure incurred by the corporation so it was within the spending limits of the managing director to get in a professional evaluation of alternatives, and I'm guessing, but I'd say it would probably cost you know probably 30 or 40,000 which would be well within the spending limits of the managing director.

Q. I take it you were involved in these issues?

A. I was aware of them, yes, yep.

5 Q. And so would you have been aware that Warren and Mahoney was coming up with another option which they were wanting to have evaluated by Holmes?

A. I can't as I say directly recall that but I do know, do recall that the initial response from Warren and Mahoney was that it didn't appear to be viable so we, you know, was it worthwhile then looking at any other alternatives.

10 Q. Would you have been asking why these various options were or were not viable?

A. No, just really as I say it was really just an economic assessment, what was the likely, um, well what was the floor space, what was the likely rent roll and what was the cost to assess costs of construction.

15 Q. And you would not have been interested at all in why one option might have been better than another one?

A. Only from an economic point of view.

Q. Sir Miles Warren was the chair of Pyne Gould was he not? I think I saw him on one of the documents 1997 he was the chair?

20 A. Yes he was.

Q. When did he leave the board?

A. Um, he was chairman at the time we acquired the building, um, and he retired two or three years after that.

Q. So he had gone by this 2007 discussion?

25 A. Oh yes, yes. He wasn't the chairman then, right.

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Q. And not on the Board either?

A. No not on the Board, no.

30 Q. I just want to go back to the 1997 work and just ask you a few questions about that. Now again I think you probably heard Mr McCarthy say this morning and your counsel asked him about this as well, and confirmed it, that the upgrade that was done in 1997, to deal with the earthquake concerns was a voluntary step that was being taken, not one that was required of the company. Agree with that?

A. Yes. Not that it was ever in our records treated as being voluntary, the term, the term in any of the PGC records doesn't refer to voluntary at all.

Q. No, no it doesn't, I accept that, but I'm asking you whether you agree with what Mr McCarthy –

5 A. Yes I do.

Q. – said, that it was a voluntary step. Given that that is at least for the present purposes a description which is taken to be correct, the company was considering some quite substantial expenditure to deal with this issue, didn't have to, voluntary. Do you recall whether there was any discussion in relation to this decision to go forward in 1997 about just exactly what was the earthquake risk, that the building might be facing that warranted this earthquake upgrading?

10 A. No, I don't recall that, I – if you look at the minutes of that meeting I was not at that meeting, but if you look at the record from the report from Warren and Mahoney, they had engaged engineers, Holmes Consulting, to consider the strength of the building, and the report came up from Holmes Consulting and the Board accepted the advice to do the strengthening required to preserve life.

15 Q. Yes, but you agree with me do you that the recommendation on what was to be done was being recommended because of concerns about what an earthquake might do to the building?

A. Yes, yes.

20 Q. It would seem logical at least, to me, that a Board making a decision to spend a substantial amount of money to take this voluntary step, would be interested in just exactly what that earthquake risk might be thought to be, but you say as far as you're aware you were never privy to any discussion about what that type of earthquake might be, that this was being designed to address?

25 A. Right.

30 Q. Final thing I just want to ask you about is this question of engineering inspections of the building. You were taken to one reference to this by my friend, your counsel. James West says in his evidence, or the evidence he will give, that he understood you had liaised with Harcourts Engineers, this is paragraph 8 of his evidence, just for reference, but I

don't need to take you to it. Now in addition to the point that you were just taken to by your own counsel post Boxing Day, do you recall having any other dealings with engineers in relation to assessments of the building between 4 September and 22 February?

5 A. I'm aware that there were on a number of occasions the engineers did come into the building and wander round, some of which was in response to our – well general queries from tenants, so if a, for example, if a request came from a particular tenant they didn't, they – their process seemed to be to inspect all floors not just the floor where
10 the query arose from, so I was aware that, yeah, the engineers were in the building from time to time.

Q. But are you telling me you were just aware really as an observer of engineers moving around the building?

A. Yeah, you asked that, am I aware – am I aware. Yes I am aware.

15 Q. Well I'm asking you, sorry.

A. Yeah.

Q. I'm asking you if that's really what you're describing, just being aware that engineers were moving around the building?

A. No, if you look at that brief, one of the particular requests did relate to
20 the ground floor, which we, which PGC occupied and there were cracks in one or two of the walls at that area and the window in my office, it actually popped out.

Q. Yes.

A. Or the window frame had popped out, so that you know from a gap
25 probably about the width of your thumb, so you could actually see down to the ground and so that was one specific inspection which we asked the engineers to come and actually check as to whether there was any issues around the fact that you know that window would pop.

Q. Well other than that one –

30 A. Other than that one, no.

Q. – did you have any direct dealings with the engineers?

A. No, no.

Q. All right, thank you, thank you Mr Hair.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr Hair, just asking for a document to be brought up on the screen, and Your Honour this is attached to Mr Hair's brief, 0001A.53.

A. Thank you.

5 Q. Mr Hair, is this the report from Warren and Mahoney produced for the Board back in 1997?

A. Yes it is.

Q. And it cites the recommendation of the two categories of work?

A. Yes it does.

10 Q. Which was imperative to preserve life safety and damage reduction measures. So am I right in saying that the cost of the damage reduction measures was calculated to be \$30,400?

A. Yes.

Q. As noted there in the second last paragraph?

15 A. That is correct.

Q. If PGC had been told in 1997 that the strengthening of the shear wall was life safety rather than damage reduction, would it have carried out that work?

A. Sorry I didn't quite catch all of that question.

20 Q. If PGC had been told in 1997 that strengthening work to the shear wall was a life safety rather than a damage reduction issue, would PGC have done that work?

A. Yes, I'm sure they would have.

25 Q. PGC made the decision not to carry out the work recommended as damage reduction measures, correct?

A. Yes.

Q. So PGC was willing to contemplate some damage to the building in the event of an earthquake?

A. It would appear so, yes.

30 Q. Do you know if any enquiries were initiated about whether such damage might have any safety implications for those in the building?

A. Not that I'm aware.

Q. You've answered some questions from my learned friend about correspondence between Holmes Consulting and Warren and Mahoney in 2007?

A. Yes.

5 Q. And you were referred to the comment in the report where – the letter where Mr Hare identifies a severe weakness seismically, you may have said this already and if so I apologise but it wasn't clear to me, were you saying that during the period in which this letter seems to have been written of 2007 that you were having direct discussions yourself with Ian
10 Bisman and John Hare about this issue of what was happening with the building?

A. There were two things occurring in 2007. Earlier in 2007 there is this strategic review of the building which is what that report refers to, but later in that year we undertook some, some structural alterations to the
15 ground floor which involved the cutting of two new entrance ways into parts of the ground floor and, so it depends on what you mean by in 1997 having discussions with Ian Bisman.

1209

Q. Did you talk to Ian Bisman in 2007?

20 A. In 2007, yes, in relationship to the structural alterations done later in that – later in that year.

Q. Did you talk –

A. I think he was the architect from Warren and Mahoney who did that.

Q. And did you talk to John Hare at any time in 2007?

25 A. No I don't think so.

Q. And your position is, is it that in your discussions with Mr Bisman in 2007 he didn't pass on any information about a severe seismic weakness in the building?

A. No, all – the discussions, well the discussions were of which were
30 conducted by the managing director, were a brief to them to look at alternatives for the building and then what came back from that subsequently was a report from Warren and Mahoney on the alternatives for a strategic development of the site, so that the discussions. There weren't discussions per se between PGC, there was

an opening brief and then a subsequent report. There may have been an interim, I think there might have been an interim update in the middle of that, a verbal update.

Q. Why did PGC sell the building?

5 A. PGC sold the building, it was the only building which the company then owned and it was considered that we could utilise the funds better in the lending activities of MARAC Finance.

Q. And after selling to Cambridge 233 it was contemplated that members of the PGC Group would remain as tenants of the building was it?

10 A. Well we – they were tenants anyway. There was a lease between PGC and MARAC and Perpetual Trust which was then transferred to Cambridge 233, and a new lease was put in place for PGC for the ground floor because there wasn't actually a lease, there wasn't a lease from the company to the company, so a lease was put in place for PGC
15 for the ground floor.

Q. As far as you're aware was any information conveyed to Cambridge 233 leading up to the sale about the work which had been done in 1997 or 2007 on the building?

A. No.

20 Q. In the period after 4 September did you see engineers inspecting the building at various times?

A. Yes I did, yes I did.

Q. Did you speak to them?

A. Yes I did.

25 Q. What did you say?

A. Well we – as mentioned earlier that damage to the window in my office so I had a conversation with that engineer and pointed out that window and the cracks, some cracks in the ground floor.

Q. Do you recall what the engineer said to you?

30 A. I remember as far as the window was concerned, he said it wasn't a major issue. He did give a handwritten sign off in respect of that and yeah, but as I say that was lost in the building.

Q. Were you aware that the engineers were from Holmes Consulting?

A. Yes I was.

Q. Back to the document on the screen there, the report produced in 1997, second paragraph, says that the building's a good one from a structural viewpoint. It was 34 years old and cannot be expected to perform as well as a modern building built to upgraded structural standards. In speaking to the engineers who were doing the inspections did you pass on any of this information or any information about the work done in 1997 or 2007?

A. No, but was well aware that Holmes had always been involved in the building, they were involved in, when the renovations were done in 1997 and they had always done any other work required in association with the building, so, naturally assumed that they – that they had good knowledge of the building.

CROSS-EXAMINATION: MR PARKER – NIL

CROSS-EXAMINATION: MR HANNAN – NIL

15 RE-EXAMINATION: MR HERON

Q. One point of re-examination, the documents that you were asked questions about both Mr Mills and Mr Elliott asked you about these 2007 documents and just, if I understand your evidence correctly am I right that you first saw these documents in about the middle of this year, July of this year in response to requests to Holmes. Is that right?

A. Yes that's correct.

Q. And are you aware that those documents were then provided through to DBH and then to the Royal Commission, or are you –

A. Yes I am aware, yes that was the case, yes.

25

COMMISSIONERS FENWICK AND CARTER – NO QUESTIONS

WITNESS EXCUSED

MR HERON CALLS**JAMES WILLIAM WEST (AFFIRMED)**

Q. Thank you Mr West, your full name and occupation please?

A. James William West, accountant.

5 Q. And who do you work for and how long have you done that?

A. Pyne Gould Corporation since October 2009.

Q. Prior to October 2009 who did you work for?

A. Wool Equities and before then Origin Energy and Mobil Oil.

Q. Thank you. Now you live in Christchurch I think?

10 A. I do.

Q. And do you have in front of you your witness statement in relation to this Royal Commission?

A. I do.

Q. Thank you, can you pick it up and read from paragraph 2 thank you.

15 **WITNESS READS BRIEF OF EVIDENCE**

A. I was initially employed by Perpetual Group Limited, Perpetual, a wholly owned subsidiary of PGC since 19 October 2009 as group financial controller and have held my current role of head of operations and financial controller for PGC since 1 June 2011. My initial responsibilities for Perpetual included responsibility for day to day Christchurch site management, chairman of the Perpetual Health and Safety committee and I was the main Christchurch contact point for matters relating to the September earthquake and the subsequent aftershocks. After the February earthquake my responsibilities were extended to business recovery and continuity of the business in Christchurch. PGC is the parent company of a group of businesses including Perpetual that provide financial and asset management services to New Zealanders. At all relevant times prior to the corporate restructure completed in May 2011 PGC was also a significant shareholder of MARAC Finance Limited, MARAC. PGC Perpetual and MARAC together referred to as the PGC Group, separately leased three of the floors of the building situated at 233 Cambridge Terrace that collapsed in the 22nd February 2011 earthquake. PGC occupied the ground floor, Perpetual occupied the first floor and MARAC occupied the second floor which it shared with

an unrelated company, Leech and Partners. I was based on the first floor of the PGC building which held 49 of the 68 Christchurch based PGC Group employees. NAI Harcourts managed the building on behalf of the owner, Cambridge 233 Limited. PGC no longer has a shareholding in MARAC as a result of the corporate restructure completed in May 2011, however at all relevant times PGC was a significant shareholder of MARAC and a 100% shareholder of Perpetual. Accordingly I make this statement on behalf of the PGC Group and am authorised to do so. The scope of this brief. I submit this brief in response to the Royal Commission's request of 17 October 2011 annexed and marked JW1. For the PGC Group to provide amongst other evidence, evidence as tenant of the PGC building of observed damage to the building between 4 September 2010 and 22 February 2011, and the nature of inspections that were carried out including the areas of damage that were pointed out to those who did inspections and the PGC Group's observation of what those inspections involved. In particular the Royal Commission has requested a brief from the person directly responsible for identifying damage and liaising with the building manager and the engineers who did the inspection. Following the 4 September earthquake I was one of the main individuals within the PGC Group that had responsibility for identifying and reporting damage, liaising with the building manager over damage to the building, and highlighting damage to the engineers who inspected the building. In relation to Perpetual based on the first floor I was also assisted by Helen Guiney, accounts administrator and Christchurch health and safety committee member whom you heard from yesterday. I understand that other people within the PGC Group also liaised with the building manager and engineers for the floors that they occupied under separate lease agreements such as Helen Golding PGC, Colin Hair PGC, both based on the ground floor, and Ross Blackler MARAC and Anne Ballingall MARAC based on the second floor. Others may have also assisted. Since the February earthquake I have been the principal contact person for PGC Group employees for issues relating to the earthquakes. I, assisted by the groups' legal representatives, Russell

McVeagh, have also taken primary responsibility for gathering and submitting relevant information about the building to the Department of Building and Housing, DBH, for its technical investigation and the Royal Commission. Information gathering. The PGC Group has provided a document entitled "Information from the PGC Group" to both the DBH and the Royal Commission to assist with their respective enquiries. Many of the PGC Group's records were lost or destroyed in the earthquakes. In preparing the information from the PGC Group document I used my best endeavours to obtain all relevant available information from within the PGC Group by undertaking the following enquiries. I searched and located available email correspondence between representatives of the PGC Group and the building property manager, NAI Harcourts, in relation to observed damage to the building and corresponding discussions or requests for inspections or repairs to be carried out in the building. I would note that a number of conversations between PGC and Harcourts were verbal via phone conversation. In conjunction with Perpetual and PGC team members we liaised with Holmes Consulting Group, Holmes, and Louise Sutherland, commercial property manager Harcourts, to locate the inspection reports that were conducted by Holmes after the September earthquake as our records were destroyed in the building. On the PGC Group's behalf Russell McVeagh undertook a consultation processed with PGC Group employees who indicated that they may have relevant information to provide about the building. As part of this process PGC Group employees were invited on two occasions to provide information on the events surrounding the earthquakes. PGC Group employees that indicated that they may have relevant information to provide met with and provided information to a Russell McVeagh solicitor, allocated responsibility for collating the information, Erin McGill. I met with and obtained information from Colin Hair, company secretary PGC, all of the historic records that he had about the PGC building during PGC's ownership and tenancy, but would note a number of these records were also destroyed or lost in the building. The information obtained from all sources, email archives, Holmes, PGC Group employees was then

collated into a collective document for submission to the DBH and Royal Commission on behalf of the PGC Group. Prior to its submission the collective document was sent to all Christchurch based Perpetual group and PGC employees, and key MARAC employees for comment. I also
5 held a meeting where I answered any questions that the PGC Group had about the process and information to be submitted. Also PGC team members that wished to do so met with the Canterbury Earthquake's Royal Commission on Wednesday 7 September 2011 and subsequently had the opportunity to provide information directly to the Commission
10 outside the PGC information gathering and reporting process. Further information received from third parties. After submitting the information from the PGC Group document to the DBH on 27 June 2011, we received two further bundles of documents from Holmes on 21 July and 29 July 2011 respectively. The PGC Group subsequently submitted the
15 first bundle of documents to the DBH. The second bundle of documents was not provided to the DBH by the PGC Group as we had been advised by Holmes that they had already submitted the documents themselves. All this information was presented at a further meeting held with the PGC Group team and circulated by email to MARAC
20 management for distribution to the relevant MARAC team members. These two bundles of documents along with the information from the PGC Group document were submitted to the Royal Commission under cover letter 26 August 2011 annexed and marked JW2.

25 **JUSTICE COOPER:**

Q. Can I just you, going back to paragraph 14, three lines from the bottom you said, it's written Perpetual Group team, but you read PGC Group team. Is that what it should be, PGC Group?

A. It was the Perpetual Group team.

30 Q. Perpetual Group, okay.

A. But the PGC Group is – consists of a couple of people now following the restructure.

Q. Sorry.

A. The PGC Group is substantially reduced following the restructure (overtalking 12:26:29).

Q. Right, okay. But anyway paragraph 14 is correct as it's written?

A. Yes.

5 Q. Thank you. You're at 16 now.

EXAMINATION CONTINUES: MR HERON

WITNESS CONTINUES READING BRIEF

10 A. In response to the Royal Commission's request, recent requests for documentation I have circulated the Royal Commission's schedule of observed damage to all Christchurch based Perpetual Group and PGC employees and key MARAC employees for distribution to the relevant MARAC team members. We seek their confirmation that it accurately records all damage they observed to the building. Instructed
15 Russell McVeagh on behalf of the PGC Group to make enquiries with Lane Neave, PGC lawyers at the time the building was purchased in 1997, to determine whether they hold any relevant documents on file.

Q. That's just – you needn't read out the reference to the annexures.

A. Thank you.

20 WITNESS CONTINUES READING BRIEF

A. Instructed Russell McVeagh on behalf of the PGC Group to make enquiries with Warren and Mahoney to obtain any information that they may have in their possession in response to the Royal Commission's request for documentation. Warren and Mahoney provided architectural
25 services to PGC after it purchased the building in 1997. Instructed Russell McVeagh on behalf of the PGC Group to make enquiries with Holmes, structural engineers and Harcourts property manager to obtain any further information that they may have in their possession that may be relevant to the Royal Commission's request for documentation.
30 Requested that Colin Hair, company secretary for PGC, search for any Board minutes or any other correspondence relevant to the Royal Commission's request for documentation. Any additional relevant documents received from Lane Neave, Warren and Mahoney, Holmes

and Harcourts in response to these requests have been discussed in Colin Hair's brief of evidence as he was employed by PGC throughout the period that PGC owned and subsequently leased the building.

EXAMINATION CONTINUES: MR HERON

5 Q. And we just note that you've updated the reference in para 17 as you read, to have been discussed?

A. Yes.

Q. Now the chronology of events leading up to and during the earthquakes after the 4th September earthquake you go on to read that thank you.

10

WITNESS CONTINUES READING BRIEF

1229

15 A. I was the first Perpetual team member to gain access to the building on Saturday afternoon, 4 September 2010. I gained access to the first floor. No cabinets had fallen over, no roof tiles had fallen and the only noticeable evidence that an earthquake had occurred on the first floor was three files that had fallen from cabinets or desks onto the floor. I did not gain access to any other areas of the building. From an
20 inspection outside the building I noted that internal ceiling tiles on the fourth floor had collapsed. No other damage was evident.

JUSTICE COOPER:

25 Q. Just pausing there, how did you get to the first floor if you didn't access the ground floor?

A. Ah, just by the stairwell.

Q. The external –

A. – Yes. What that means I didn't go through the offices and meeting room of the ground floor.

30 Q. So where did you enter the staircase?

A. Through the main entrance.

Q. On the ground floor?

A. Yes. I did not inspect any of the offices on the ground floor.

EXAMINATION CONTINUES: MR HERON

- 5 A. A green sticker was placed on the building on Sunday 5 September. A Perpetual employee recalled that the placement of the green sticker was based on an inspection by Council engineers and Holmes. The same day PGC Group staff members were sent a text message advising them that the office was back up and running but their personal situations were first priority. A small group of Perpetual employees, including myself, returned to work on Monday 6 September with a larger group being present by Tuesday 7 September. On 7 September Holmes
- 10 conducted a rapid structural assessment of the building and approved the placement of the green sticker on the building as the building was concluded to be safe to occupy. A copy of the Holmes' report is annexed and marked JW7.
- 15 Q. Now we might just get that up. Can I interpolate there and just ask you whether you yourself did anything in particular in relation to Holmes or the building manager?
- A. So on our return to work I contacted Holmes via phone and verified the process with them in respect to structural engineering report which they confirmed was underway and on the 8th of September I was able to
- 20 send an email communication to the team and also advise the Board (and I quote) "A quick up-date - Structural engineers have checked out the minor crack in the toilet wall and we have re-confirmation that there are no structural issues with the building."
- 25 Q. And we just see in close detail the Holmes' Report, JW7, which you've referred to which is a rapid structural assessment and the confirmation "confirming green placard, building okay to occupy [structurally]". Did you discuss at all with Holmes what that meant at the time?
- A. Um, the confirmation was that the building was okay to occupy and I didn't clarify further other than we took comfort that Holmes as a
- 30 reputable engineering firm who provided the advice.
- Q. Para 22.
- A. I recall there being a significant aftershock on Wednesday 8 September just before 8.00 am and that as a result all PGC Group staff members were sent home or did not come to work. On 16 September the

Christchurch City Council inspected the building and issued a rapid assessment form affirming the placement of the green sticker on the building. A copy of the form is annexed and marked JW8. On the same day Holmes inspected new cracks in the shear walls of the building and the parapet above carparks on the boundary. The report and accompanying photographic survey annexed and marked JW9. The report concluded that the cracks were not significant and that the parapet was stable and had not moved in the earthquake. The Health and Safety Management Committee of the Perpetual Group held a meeting on 23 September 2010. A copy of the Meeting Minutes is annexed and marked JW10. I chair the Perpetual Health and Safety Committee Meetings and they also are attended by PGC's Head of Compliance. The Committee discussed, amongst other things, the Perpetual Group's response to the September earthquake. This included business continuity planning, lessons learnt and for other Perpetual locations the management of potential falling hazards around the workplace and verification of emergency supplies.

5
10
15
Q. Just pause there. You will recall Ms Guiney being asked about the final portion of the Minutes of that meeting where you note their excellent work and you go on to ask that all committee members conduct a review etcetera?

20
A. Yes, we do regular hazard reviews throughout the national offices and we just wanted to re-affirm that anything that could move in relation to filing cabinets or other items that could tip were actually properly attached to the walls and that was completed.

25
Q. Damage to the ground floor PGC, para 25.

A. MARAC employees reported cracks on the left-hand wall as you go out the ground floor back door which is the north side of the building. It is understood that the engineers were shown these cracks but they were deemed to be not of concern. On 15th of October Holmes inspected a gap in the window frame on the ground floor. The report which is annexed and marked JW11 concluded that the gap posed no structural issues.

30

Damage to the First Floor – Perpetual. Helen Guiney and I had various conversations with our building manager, Harcourts, in respect of cracks identified on the first floor and engineering inspections to be conducted. On 30 September 2010 I emailed Louise Sutherland, Commercial Property Manager, Harcourts, regarding a telephone discussion between her and I a week earlier in which I had raised a newly discovered crack in our storage area that backs onto the lift shaft on floor 1. I wrote to follow up this issue with Ms Sutherland and again request that an engineer inspect the building as soon as possible as I had not heard from her. Ms Sutherland replied on the same day advising that two structural engineers had inspected the building, that the building had been classified as safe to occupy and that it had been determined that any visible damage was cosmetic only and did not pose a risk to the safety of the building. Ms Sutherland also advised that Harcourts would be appointing a project manager to inspect the building with the insurer and oversee all repairs. She stated that the cracks I had referred to would be taken into account at that time. She also stated that it is also worth bearing in mind that as long as aftershocks are occurring new damage will be appearing therefore there is little point into rushing into repair works until they have stopped. I responded the same day, thanking Ms Sutherland and stating that we just wanted to be sure we were adequately reporting any issues as we were not structural engineers. The email chain is annexed and marked JW12.

Q. Now just pause there. If you could be shown the second page of that document, JW12, and there's a second page to it. Do you see there there's handwriting and it states, "Michael I did not formally file note but after the initial earthquake I formally showed structural engineers all cracks in the central structure of the building." Is that your handwriting and signature?

A. That is my handwriting and that is addressed to Michael Tinkler who is the PGC legal counsel.

Q. And is that accurate?

A. Yes that is accurate.

Q. Just, I'm sorry I didn't pick up the second line. "I formally – "

A. Showed, I apologise for my handwriting.

Q. And when you say “formally” what did that mean?

A. Ah, there were two Holmes’ engineers on site and I actually showed them the cracks at that point in time which were in the shear wall.

5 Q. At what level?

A. Ah, level one.

1239

Q. You are at 31 I think.

10 A. Perpetual employees reported the following damage to the first floor. A crack that appeared almost immediately and run continuously around the internal structure, the toilet block which is the core structure of the building. The cracks extended through both sides of the walls.

Q. Just pause there. The file note you made and the comments in evidence just now –

15 A. Refer directly to that point.

Q. Thank you, carry on.

20 A. Cracks in the changing room next to the female toilets which ran through into the female toilets on the first floor. There were numerous hairline cracks that ran horizontally from left to right across this wall. A Perpetual employee recalls someone inspecting the cracks and assumed it was somebody from the Earthquake Commission. Cracks in the walls in the accounting and corporate divisions, cracks in the stationery room which backed onto the lift shaft, the crack ran horizontally across the wall of the room. Cracks around the top of some
25 internal columns, a crack across the first step closest to level 1 between levels 1 and 2 of the building. This crack was visible from the ceiling below on the ground floor.

30 Q. Just to interpolate there, because this is talking about Perpetual employees can we take it that all of this except where specified is level 1?

A. Yes.

Q. Thank you. 32?

A. I understand that all reported cracks were shown to engineers during various site engineering inspections by Perpetual employees including RCI – Canterbury Earthquakes – 20111129 [Day 13]

on three occasions I highlighted cracks to various engineers and on one occasion Helen Guiney highlighted cracks in the storage room to an engineer. A Perpetual employee took some photos of the building and its surrounds in October 2010. While they do not appear to show any damage to the building and its surrounds they are attached and marked JW13 in case they are of any assistance. Damage to the second floor MARAC. MARAC employees stated that the building noticeably creaked after the 4 September earthquake. They also reported feeling noticeable vibrations with all sizeable aftershocks. Perpetual employees on the floor below felt vibrations also but they do not appear to have been as strong as those felt in the floors above. MARAC employees reported the following damage to the second floor. A vertical crack above the door that led into the second floor lunch room. MARAC shared this lunch room with Leech and Partners. The vertical crack was on both sides of the 20 cm thick concrete lintel and ran from the top of the door up to the ceiling. The crack did not expose a gap but was rather a hairline crack. A MARAC employee showed this crack to the two engineers that came round to inspect the second floor after the 4 September earthquake. She is unsure who engaged these engineers but she recalled they came and inspected after every sizeable aftershock. She recalled the engineers visually inspecting the crack and saying that it was not of concern. A vertical crack running down a vertical join where a concrete pillar met the wall. The same engineers as above inspected this crack and advised the MARAC employee that the crack was cosmetic only and nothing to worry about. The crack mentioned in paragraph 31F above which is the steps. During the inspection on 15 October 2010 as referred to paragraph 26 above, Holmes assessed partition cracks which had appeared at the concrete interface on the second floor. It was concluded that the cracks did not pose any structural issues, refer exhibit JW11. General. It was generally recorded by Perpetual and MARAC employees that there were cracks in a number of internal partitioning walls, ceiling tiles fell on the fourth floor, small gaps in window frames appeared, the building moved with each significant aftershock and the cracks in the building generally got bigger with

5 aftershocks. Inspections. Cambridge 233 Limited has publicly stated that four assessments and reports were prepared by structural engineers after the September earthquake and then again after the Boxing Day earthquake. The relevant media report is annexed and marked JW14. A Perpetual employee stated that engineers Holmes inspected the building again either in November or December, but before Boxing Day, because Leech and Partners reported that cracks were getting larger in the bottom stairwell. After the Boxing Day earthquake, and I just note here which is not in my evidence but the damage that was caused after the Boxing Day earthquake on the ground and first floor was significantly larger than the damage from the 4 September earthquake. Damage to the ground floor PGC. Colin Hair, PGC company secretary reported the following damage to the ground floor. Exterior window frames separated out from interior window frames leaving a small gap particularly in his office, some interior glass walls on the ground floor shifted resulting in some bowing, surface cracks appeared on internal walls particularly between the managing director's office and the server room and the server room and kitchen area. I understand that Harcourts were advised of this damage and arranged for an engineer to inspect. Written clearance was provided by the engineer to Colin Hair, PGC but that document has been lost in the building. Damage to the first floor Perpetual.

15
20 Q. Now just pause there please Mr West.

MR HERON ADDRESSES JUSTICE COOPER AND COMMISSIONERS

25 Your Honour, Commissioners, there is obviously hearsay in the next three paragraphs if you do not mind receiving it.

JUSTICE COOPER:

We will receive it and make our minds up about it.

30

MR HERON:

Thank you. It is obviously a collation of information.

JUSTICE COOPER:

RCI – Canterbury Earthquakes – 20111129 [Day 13]

Q. Just before you move on. In paragraph 41 the engineer, do you know the name of the engineer who inspected?

A. No I do not.

EXAMINATION CONTINUES: MR HERON

5 A. Damage to the first floor Perpetual. Kate Palmer, Perpetual Trust consultant, was the first Perpetual employee to return to work after the Boxing Day earthquake on Monday 27 December 2010. On that day she observed that a window had shattered in her office. No glass fell out of the window, rather it shattered like a windscreen. Her office was at the
10 front middle of the building facing towards the river side in a southerly direction, so that is the south side of the building.

Q. Yes.

A. Kate telephoned Louise Sutherland, commercial property manager Harcourts, who arranged for a glazier to come and repair the window.
15 Kate was unable to recall the name of the glazier or his company. When the glazier arrived he was unable to fix the window. This was done several weeks later but he and Kate using masking tape to secure the broken glass within the frame. Only the internal pane of the double glazed window had shattered. The external pane was intact. Kate and
20 the glazier also cordoned off the area directly below her office on the footpath with a cone and tape in case the glass subsequently fell out of the window. Kate also observed that some ceiling tiles on the first floor were hanging down. The glazier helped her take one of the tiles down. Each tile apparently weighed approximately three kilograms and had a
25 metal surround with a plaster filling. The glazier told Kate that the tiles were not fastened to the ceiling structure but were resting on metal supports which were not screwed into the ceiling beams. Perpetual employees also reported the following damage to the first floor. Cracks on internal columns in the north west of the building had increased in
30 size. These cracks ran right around the top of the columns almost at ceiling height. A crack appeared in an external column that was located between the first and second floors in the southwest corner of the building. The crack ran around the outside of the column and from what

could be observed from inside the building appeared to go right around the column. This column apparently weighed 6.5 tonnes and fell on top of an employee in the February earthquake. A significant crack appeared in an internal wall in the same southwest quarter of the building. A crack appeared in the polished marble tiles in the floor one reception area. The crack ran in a jagged line from the Perpetual reception desk out into the lift foyer. On 26 January 2011 Helen Guiney, accounts administrator Perpetual, emailed Ms Sutherland referring to a request made a week earlier on behalf of the PGC group for an engineers' inspection of a significant crack under the first floor stairwell which we were concerned about. Ms Guiney stated that this had been raised as a potential hazard which required urgent attention at a Perpetual health and safety meeting the day before. Mrs Guiney stated that she had heard that the building had been deemed structurally sound by engineers and asked for a copy of the engineers' report so that the PGC group could be sure the stairwell was safe. Ms Sutherland responded the same day advising that the engineers had inspected the crack and that they were waiting on the report. Refer email annexed and marked JW15. On 27th January 2011 Holmes issued a report. Refer report annexed and marked JW16. The report concluded among other things that the building remained safe to occupy. Damage to second floor MARAC. MARAC employees did not report any new damage to the second floor as a result of the Boxing Day earthquake. General. It was generally reported by PGC group employees that after Boxing Day subsisting cracks became larger and the building cracked loudly, creaked loudly and shook noticeably with all sizeable aftershocks. This was more noticeable the higher you went up in the building. Perpetual employees recalled seeing builders in the first floor of the building at some stage between the Boxing Day and February earthquakes. The builders were attending to the ceiling where plaster had been coming off and falling on to the ground. The employees recalled seeing piles of dust on the ground. They advised that the builders' log book if they were to be located should note or Harcourts should know when exactly this work was carried out and by whom. Perpetual employees also

recalled seeing builders out the front of the building at some stage between the Boxing Day and February earthquakes. The employees were unable to recall what type of work they were undertaking but thought it was repair work of some sort and remember red tape around the area.

5

Q. Now just pause there, if I could take you to that document, JW16 which is the Holmes letter of 27 January 2011.

WITNESS REFERRED TO DOCUMENT JW16

10

Q. And you've given evidence on a number of occasions that the PGC group employees noted subsisting cracks become, became larger?

A. Yes.

Q. And I just refer you to the first comment by Mr Whiteside of Holmes. "Previous cracks have enlarged", do you see that there?

A. Yes. That is correct, over time, ah, all cracks became larger in length.

15

Q. And it then goes on to "cracks to level 1 stationery wall now greater than .2 millimetres et cetera", can, can you just help us what wall is being spoken of there?

A. That is the wall next to the lift shaft that was reported by Helen Guiney yesterday, um, so I'd need to demonstrate that on a, um, a drawing of the building.

20

JUSTICE COOPER:

Q. Right we have some – we've got a rather better drawing today but I'm not sure if that's been loaded on to the system has it, so if we can have the, if we can tell the operator the number that would be a good start?

25

A. Oh thank you, thanks very much.

Q. The first floor plan, so this is now we're looking at the document with the suffix 159.3, BUI.CAM 233.0159.3 and there's grids and numbers being put on that now if you can see the numbers going down the left-hand side and lettering across the top of the page.

30

A. I just need a way of marking that on the...

Q. Is that not going? Help is on its way.

A. Excellent.

WITNESS REFERRED TO DRAWING

A. I believe that refers to the crack on that wall there which run initially very, in a very small way from there and by the end of the earthquakes or February ran all the way across the wall.

Q. So you're describing the line at, the wall at line 5?

5 A. Yes.

Q. Between letters D and E?

A. Correct.

EXAMINATION CONTINUES: MR HERON

10 Q. And I just want you to if I may come back to the crack that we discussed and you record at 31A of your evidence. Could you do the same as well for the Commission and indicate where that is on the plan 159.3?

A. That crack which ran through ultimately both sides of the same wall ran from there all the way through there right round the back and through to about here and then you couldn't see what happened with that crack
15 from there to there due to internal files and, filings on the wall so it run –

JUSTICE COOPER:

Q. Just show me the starting point there?

A. So it started here.

Q. Yes.

20 A. Ran through both sides of the wall.

Q. Yes.

A. Continuously on a horizontal manner all the way through.

Q. Right.

A. All the way round all the way to about there.

25 Q. So the starting point is at –

A. C entrance to –

Q. Figure 4 and letter E and it proceeds to the north?

A. Yes.

Q. Then across back to letter D and down that wall?

30 A. Yes.

Q. For so far as it was, the view was unobstructed?

A. Yep. Both sides and it was horizontal in nature.

COMMISSIONER FENWICK:

Q. Can you say how high up?

A. I would have said about a metre and a half.

Q. Above the floor?

5 A. Yes.

EXAMINATION CONTINUES: MR HERON

Q. And someone will probably ask you but firstly what sort of size was the crack?

10 A. I would have defined it as a hairline crack whereas the crack on this part of the building here was a lot more pronounced.

JUSTICE COOPER:

Q. That's the crack on the wall at line 5?

A. Yes.

COMMISSIONER CARTER:

15 Q. And the crack you described in para 31A which you've just said was a, you would describe as hairline?

A. Yes.

Q. How were you able to tell that it existed on those sides of the shear wall?

20 A. Ah, it was very easy on, this area here was the entrance to the toilet so you could walk through and see it and on this side here there was meeting room and other access into offices so it was very obvious to see on both sides of the, of the wall.

JUSTICE COOPER:

25 Q. On the wall on line 4 how high above the floor was the crack that was...?

A. About a meter and a half.

Q. Again the same height (inaudible 12:56:48)

30 A. Yes it was, it went on a horizontal angle but at some times it obviously went up and down.

Q. Just for the record that last question related to line 5.

A. Oh sorry line 5, um, again it was horizontal in nature but it had more a, sort of went down and then up if that makes sense.

Q. At what height?

5 A. Um, I would have said it would have been between about, um, one and a half and 1.8 metres.

MR HERON

I'm just mindful of the time but does it suit you Sir to finish reading?

JUSTICE COOPER:

10 Yes it does.

EXAMINATION CONTINUES: MR HERON

Q. You're at para 52.

A. "The 22nd February earthquake employees trapped in the building reported that the building almost instantly collapsed with the earthquake.
15 The ceiling, concrete floors from the levels above fell down trapping people in the building. The building effectively collapsed on to the first floor leaving most of the office space on the ground floor largely intact. A Perpetual employee who was trapped in the first floor cafeteria at the time of the earthquake recalled the cafeteria wall being the first thing to
20 come down. Another Perpetual employee recalled hearing parts of the building come down around her before the ceiling above her came down.

Q. Could you just point out where the cafeteria was?

A. The cafeteria was this area in here.

25 WITNESS REFERRED TO DRAWING

Q. So you're indicating an area between three and four and C and D.

A. Yep, cafeteria would be in here.

Q. Thank you, 55.

30 1259

A. “A MARAC employee commented that the fire escape came away from the building. Employees generally reported that the emergency exits were unable to be used due to the way in which the building collapsed trapping people under building rubble and blocking all exits. Annexed and marked JW17 are before and after photographs of the building which demonstrate the damage that occurred in the February earthquake. The building has now been demolished and a concrete pad remains in its place. From what I could observe the concrete pad did not contain any cracks, is flat and is generally intact. Further information requested by the Commission. Observed damage. As referred to above at paragraph 16A I arranged for the Royal Commission schedule of observed damage as attached to its letter of 17 October 2011 to be circulated to all Christchurch based Perpetual Group and PGC employees and key MARAC employees for distribution to the relevant MARAC team members and sought their confirmation that this is an accurate record. A copy of my email is annexed and marked JW18. The responses I received did not report any damage which was not already substantially covered by the Commission’s schedule of observed damage. Accordingly, based on my observations, the observations of others reported to me and the investigations carried out by or on behalf of the PGC group I consider the Royal Commission’s schedule of observed damage accurately records all damage to the building observed by the PGC group. While some of the damage on the schedule was not observed by the PGC group all damage that was observed appears on the schedule.

COMMISSION ADJOURNS: 1.01 PM

COMMISSION RESUMES: 2.14 PM**CROSS-EXAMINATION CONTINUES: MR MILLS**

- 5 Q. Can I just clarify one thing with you before I ask you a few questions around the assessment process? When you were giving your evidence, and I think it is also in your written statement, you have referred from time to time in relation to the assessments to engineers plural. I wanted to just clarify with you whether it is your evidence that sometimes at least when you saw an engineering assessment in progress it was
- 10 engineers multiple who were doing that?
- A. On two occasions there was two engineers and on another occasion there was one engineer on his own.
- Q. Obviously I will have to clarify that with the engineers –
- A. Yeah, only they can confirm that.
- 15 Q. And you do not know who they were?
- A. I believe for the two teams of two that were over respective periods of time at least one was a Holmes person on both occasions.
- Q. Yes.
- A. And the solitary engineer I am not sure what firm he was represented
- 20 by. I did have a complete file of this on my desk in the building but unfortunately it is no longer with us.
- Q. Certainly my understanding had been that apart from that initial council assessment under the Emergency Powers Act on the 5th of September where there was a team of three, that they had all been done by
- 25 individual Holmes engineers, one of them on three occasions and one on one occasion.
- A. My understanding is on two occasions there was another person with what I believed to be a Holmes engineer.
- Q. Okay. Thank you. As I said I just want to ask you a few questions
- 30 around the assessment process and your experience with it. First of all, paragraph 19 of your written statement. Now it is a matter of record that the 5 September sticker was the original council one that was done –

A. Correct.

5 Q. – under the Emergency Powers regime? If it can be clarified I just note that you have got some unnamed employee saying that they thought it was based on an inspection by council engineers and Holmes. Now it is possible that there was a Holmes engineer in that group but are you able to be any more specific?

A. No, this document was gathered by evidence from people within the PGC group and this was the recollection of one person. I cannot tell you or not whether or not a Holmes person was actually present.

10 Q. Yes.

A. For that initial council inspection.

15 Q. Yes, well that is all right, again we will get that from Mr McCarthy who I asked about that this morning. Secondly, paragraph 21, you refer there to Holmes coming on the 7th of September and conducting a rapid structural assessment. What I am interested in is whether you understand what a rapid, or did at that time did you understand what a rapid structural assessment involved?

A. No I did not.

20 Q. I see. So this use of that terminology is that simply taken from the fact that that is what is on the document?

A. Yes.

Q. You have attached tab 7 to that bundle, it is behind your evidence. The so-called rapid structural assessment that you have referred to in your paragraph 21, did you see that at the time?

25 A. Again I had a file of everything in relation to the earthquake on my desk. I believe I did see this but probably not on the 7th or the 8th.

Q. Yes. Do you recall with any kind of confidence seeing this language, “Okay to occupy”?

A. Yes.

30 Q. Do you recall, looking back, what message you took from those words?

A. That the building was safe to occupy.

Q. If you had been told that this assessment was a relatively preliminary one that did not involve any examination of the structural drawings of the building, did not involve opening up in any kind of intrusive way the

building to take a look inside key elements of it, would that have surprised you?

A. Look I am an accountant.

Q. Yes I know, I am just asking for your view as the –

5 A. So, look my view is that you leave reviews to the experts and Holmes was the expert here and they conducted their review and reported that the building was okay to occupy.

Q. Told you it was safe to occupy?

A. Yep.

10 Q. That was it. Now paragraphs 28 and 29 of your evidence, you have made reference to an email exchange with Louise Sutherland at Harcourts?

A. Yes.

15 Q. We will be hearing from her later today. Again I see in paragraph 29 that you are told that the building is safe to occupy and so do I take it once again you are just getting the same level of reassurance that you got before?

20 A. We were consistently reassured that the building was safe to occupy and had been inspected by engineers so that was a consistent message throughout the period of the earthquakes.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr West, just to clarify a point. In paragraph 23 of your brief you refer to the city council inspecting the building on the 16th of September?

A. Yes.

25 Q. And then on the same day Holmes inspected new cracks?

A. Correct.

Q. And I think you are referring there to that being the second city council inspection apparently after the first inspection with a green sticker?

A. That would be correct.

30 Q. Can I just draw your attention to firstly Mr McCarthy's evidence that there was no record on the council's files of a level 2 rapid assessment and also the statement of Mr Boys in which he says that he carried out an inspection on the 16th of September and he says during his

inspection he completed a rapid assessment form level 2. Do you think it is possible that there were not two separate inspections that day? It was Mr Boys?

5 A. That is possible. My understanding was, my exhibit JW8 was a council inspection but that may be incorrect.

Q. Paragraph 25, you refer to engineers being shown cracks. Was that you who showed the engineers those cracks?

A. No I believe that was MARAC.

10 Q. And where you refer to, I think you have already said this, but paragraph 31, you have referred to damage. You personally saw all of that damage listed in paragraph 31?

A. Yes.

Q. And you also saw personally, did you, all of the damage listed in paragraph 45?

15 A. Sorry 45?

Q. 45.

A. Correct.

20 Q. Paragraph 45B talks about a crack in an external column between the first and second floors in the south west quarter of the building. Do you know whether that crack was reported to the building manager and/or to Holmes?

A. I believe it was.

1425

25 Q. Who by?

A. Um, it would have either been myself or Helen Guiney and I believe that crack I showed an engineer on a site visit but I cannot recall the date.

Q. Now I'm just going to refer you to a document, WIT.WES 111A.23 which is behind Mr West's brief Your Honour.

30 **WITNESS REFERRED TO PHOTOGRAPHS**

Q. And if I could ask for CAN233.0054.26 to be put on the screen please? All right so I'll bring up the photograph shortly but the first document I've referred you to is a series of photographs and just to orientate ourselves

Holmes will confirm this but it appears that these were photographs taken by Mr Boys on that visit I've just mentioned?

A. Right.

5 Q. And the diagram I've brought up although it's hard to see has some arrows, I'm not asking you to confirm this, this is for the Commission's assistance and Your Honour the right-hand diagram arrows number 11 and 12 appear in relation to the first floor so what that would indicate is that the photographs we're about to refer to 11 and 12 seem to have been taken in the region where 11 and 12 are indicated in red on that
10 right diagram. And Mr West you have a look there and see those two arrows on the right?

A. It would be 11 and 12?

Q. Yes. And that's the eastern side of the shear wall on level one?

A. Correct.

15 Q. And now I'm going to show you the photographs which Holmes appear to have taken of those two locations and that's 111A.23, so 11 is the top one, 12 is the bottom one. And if the two top ones could be enlarged please. Right, so Holmes will confirm this, Mr Boys will confirm this no doubt but these are the two photographs which appear to have been
20 taken of those two locations on the eastern shear wall, can you just describe whether those photos represent the nature of the cracking in those other parts of the shear wall which you've given evidence about?

A. No they don't, um, they're not remotely similar.

Q. I'm sorry?

25 A. They're not similar at all.

Q. In what way are they different?

A. Um, the one in the shear wall that ran right round, ah, the block was a single line it was not a series of cracks like this.

30 Q. It may be difficult for you but by reference to these photographs are you able to give an indication of precisely where you think they might have been taken?

A. Um, could you please go back to the original placement of 11 because I believe 11 would have been a meeting room? So the earlier, so if this photo is correct 11 was the back wall of the meeting room.

Q. And so is the photograph 11 if we can go back to that photograph, was the cracking in that photograph do you think a part of the horizontal crack you've talked about or separate to it or...?

A. That picture here is not a representative picture from my, ah, my mind.
5 That was not, um, in terms of a lot of the cracking that was not what I can recall but you're telling me this is a picture of level 1?

Q. Well as I say Mr Boys will confirm that but do you have any particular recollection of seeing those cracks?

A. No.

10 **RE-EXAMINATION: MR HERON**

Q. Mr West just on the, that subject the photos you've been referred to are at your JW9?

A. Yes.

Q. Behind Mr Boys' report of 16 September and I wonder if you could just
15 look at the photos which run from photo 1 through and they appear to be ground floor through until about photo 10 and then if you can look at photos 11 through to 17?

WITNESS REFERRED TO PHOTOGRAPHS

Q. And just comment please, do any of those photos capture any part of
20 the horizontal and my words lengthy crack that you were describing in your para 31A?

A. I think the most, ah, the most similar one would be number 12 but without the vertical cracks below it and the crack here looks in my mind the picture seems to make it more extreme than it actually was when
25 you were there on site, ah, actually on the site.

JUSTICE COOPER:

Q. I don't follow that sorry.

A. So the cracking here looks a lot more severe than what it actually was when you were on the site.

30 Q. Right.

A. So I think that's just the lighting or how the picture's been taken.

RE-EXAMINATION CONTINUES: MR HERON

Q. If you look at photo 12 there appears to be something at the bottom of that photograph?

A. That would be a heater.

5 Q. Looks like a heater yes and then are you able to gauge, do you recognise that heater?

A. Ah, no I do not but it's possibly a heater in one of the meeting rooms.

Q. Now my rudimentary physics tells me heaters are normally at the bottom of the wall?

10 A. Yep.

Q. And I might be wrong?

A. I think that's correct.

Q. But, but then are you able to give us any assessment of, we, we can see that sort of horizontal line running across photo 12 comparing that to where the crack that you've described was can you give us any further information?

15

A. That would be a similar height of the crack, ah, that ran continuously round that part of the core structure.

Q. Okay and that was just remind me roughly what height?

20

A. I believe it was about a metre and a half.

COMMISSIONER FENWICK:

Q. Can you tell me what the surface was, was this a plastered surface, a painted surface or plain concrete?

25

A. It was, it was predominantly a painted surface, ah, I believe there was some plaster underneath as well.

COMMISSIONER CARTER: NIL**JUSTICE COOPER: NIL****WITNESS EXCUSED**

1435

MR MILLS CALLS

5 HELEN GOLDING (SWORN)

Q. Your full name is Helen Marie Golding?

A. That's correct.

Q. You live in Christchurch?

A. Yes I do.

10 Q. You're an Executive Assistant?

A. Yes.

Q. At the time of the 22 February earthquake you were a full-time employee with the Pyne Gould Corporation?

A. Yes I was.

15 Q. As the Personal Assistant of the Company Secretary?

A. Yes.

Q. Well if you could just pick that up where I left off in paragraph 2 and go through it. If you want to develop it at all as you go through I don't want you to feel you are rigidly attached to the written form.

20 A. I was also employed on a part-time basis for Sam Maling, Barrister, who contracted me from Pyne Gould Corporation Limited on a part-time basis and paid PGC accordingly. Both employers were tenants of the PGC building. My office for both jobs was on the ground floor. I first started working in the PG building in 2008 when it was owned by PGC

25 and at that time Sam Maling was Chairman of PGC. Until the building was sold one of my responsibilities was to manage the building, look after the tenants and organise repairs and maintenance. When the building was sold Harcourts took over the role of the building manager. Even after Harcourts took over some of the staff in the building would

30 still come to me from time to time with issues about the building. I would forward these on to Louise Sutherland and Ann-Cherie Manawatu-Tera. After 4 September earthquake my recollection is that I went back to work on Monday 6 September after the 4th of September earthquake. I had not heard that there was any issue with our building. When I

arrived at work I saw there was a green sticker on the front door. I assume that this meant that an engineer had inspected the building and considered it to be fine. I went inside and looked around the ground floor. The foyer common area seemed fine. There were some cracks going out the back of the walkway that led to the carpark at the back of the building. I saw that there were some cracks in the Managing Director's office. In the cafeteria there were cracks running down and across the walls. Even though there was some cracking I thought at the time that it was good that the building had come through the earthquake well. It was an old building and it was solid. I often went up onto the roof of the building to check that both flags on our flag pole were still there and had not been stolen over the weekend which was actually often the case. I did not notice any damage up on the roof which I wandered around after the 4th of September. At some stage a young girl from Leech & Partners came down to my office and said that she was really worried about the building. She was particularly concerned about the cracks that you could see as you came in the back door from the carpark. She said that they were getting bigger. I went out with her and we looked at the wall together. After that I decided to ask Holmes Consulting Group who had had a long association with the building to come and have a look. I emailed Louise Sutherland of what I had done and Harcourts were happy with that. A person from Holmes came out and did an inspection of the ground floor in that particular area. He said that they were just hairline cracks and there was no need to worry. I then sent an email to Louise Sutherland and Leech & Partners recording what he'd said and that email also went to the rest of the tenants in that building that were key figures. Holmes had done everything for that building for years. I was always happy with their service and I trusted them. This was the only time I saw any engineer or inspection of the building between September and February but that does not mean that other engineers from the Council had not been there also. After the Boxing Day aftershock I went back to work after Christmas in the third week of January. There was still a green sticker on the front of the building which was comforting. In January this year I did notice that the

cracks were more prevalent than before Christmas and there was a bit more painting coming off but I assumed it had all been checked.

Q. Now I'll just confirm with you while you're there that when you refer to "the cracks" are you referring to the same ones that you mentioned earlier?

A. The same ones I mentioned earlier because by that stage the building having been sold I was taking care of the ground floor still and they had just got slightly wider, slightly longer and slightly more paint had come off.

10 One of my concerns looking back at the building is about the weight that was put on the roof at different times and whether that could have affected the building. An air conditioning system was put in on each floor prior to PGC selling the building. Beca were engineers for that. Heavy equipment to enable the air conditioning units to work was lifted up onto the roof of the building by a crane. I assume Beca had an engineer calculate the weight of this equipment on and in the building. Part of the roof was leased to Telecom and my recollection of this had been about early 2009. The lease was to enable Telecom to put a large antenna and associated equipment on the top of the building and I have no idea whether that operation required an engineer's report from a weight bearing perspective. It was lifted up onto the roof by crane as well. That work was done by Transfield and would have added extra weight on top of the building.

15 22nd of February – I went to work on 22nd of February but I left the building five minutes before the earthquake struck because my son was at home sick.

Q. Well your son deserves something doesn't he?

A. An angel on my shoulder is what I say.

Q. Yes, now look the first thing I want you to do is to just identify where these cracks were and so I'm just going to get that drawing put up that we had up before so you can identify for the Commissioners where the areas are that you're describing. You probably know which ones they are don't you?

A. On the ground floor.

Q. There's a laser pointer there.

GROUND FLOOR PLAN DISPLAYED

5 Q. So the first one I'm going to ask you about then is paragraph 10 where you describe cracks going out the back of the walkway that led to the carpark at the back of the building.

A. The back of the walkway, according to me, is this area going through here. It was the back door that led out. Is that right? It's hard to tell from this.

Q. Well Cambridge Terrace is to the bottom of that.

10 A. Yeah, no, we're definitely behind the building. This is the carpark area I assume, isn't it, behind the building up through here?

Q. I'm not sure.

COUNSEL CONFERS WITH COLLEAGUES AS TO LOCATION OF CARPARK

15 A. Colin you might be able to assist me on this. That is, isn't it, that's the walkway out.

Q. And so the cracks you're describing?

A. Were right along this wall here and they were wider and bigger than before and the other cracks that caused me concern were –

20 Q. This is the Managing Director's office?

A. The Managing Director's office which was inside in here because I sat sort of over by the windows and he was right in here.

Q. So you're identifying the western side of the shear wall?

A. Yes.

25 Q. About mid way along that wall going north/south?

A. Yes through, a wee bit through there and more so across here.

Q. So also running east/west?

A. Yeah and also in our cafe they were right round really.

30 Q. And that is in the north-western corner or towards the north-western corner?

A. That's right, that's right.

Q. And it's again against the shear wall?

A. That's exactly right.

Q. Are you able to give any precision, I imagine Commissioner Fenwick will want to ask you more about this, but are you able to give any more precision about the size of the cracks that you were seeing?

5 A. They were large, I mean sev..., three or four millimetres wide but having a trades background I at no point were actually concerned that something dramatic would happen because of them, um, and having been up on the roof at various times replacing the flags that would have been where I would have expected things to be more, if there was trouble it would have been from the roof down in my book and so I never
10 felt at any point even though there were cracks I wasn't duly unworried 'cos as far as I could see they were superficial like there was nowhere where you could run a screwdriver in and start to think, oh this goes right through from one wall to the other so in that way I, I didn't have a fear of being in the building at any given point.

15 1445

Q. Yes. The cracks were vertical or horizontal?

A. Both.

Q. Then you say further on paragraph 13 of your evidence, "This young girl for Leech and Partners came down. I was particularly concerned about
20 the cracks that you could see as you came in the back door from the carpark". Now are those the same cracks that you've previously described?

A. That's right. And she, um, she came down, she was really frightened and I thought, "Right even though we didn't own the building I would
25 cover it anyway", and email Holmes which graciously came along and double checked it with me and he said, "No they're hairline cracks", if there'd been major damage they would have gone through the other side of that wall which in fact was the room where all the boilers were stored that used to heat the building before we replaced it with air-con,
30 um, so at that point I emailed, I, I said to him, "Now make sure you email me this back I need to send it round to the key members of the staff to put them at rest".

Q. Yes.

A. Which I did.

Q. And when you went and looked at those cracks with this young girl from Leech and Partners did they look any larger to you than they had when you first saw them on your own?

5 A. More so from more paint had dropped off but once again I wasn't frightened by it because I had seen worse things in my past and what have you and, and I had, knew really what to look for if there were danger issues in my own head so I thought it was superficial, the walls were solid, um, there was nothing you could see through anywhere and, and, I mean if I had any doubts I wouldn't have gone in the building myself and I mean I often roamed around the building up and down the stairs, going to the roof and in the, in the stairwell areas I never spotted something that would have disturbed me greatly.

10 Q. You said in paragraph 9 of your evidence that when you came back to work in September after the 4 September earthquake that you arrived you saw a green sticker. You assumed this meant an engineer had inspected and you, and had considered the building to be fine?

15 A. Yes.

Q. I gather that comforted you?

20 A. Yes it did. I, I thought, "Right this", and I always believed this building was very solid, I mean not that that made it right but to me it was the green sticker was there, in fact right throughout the green sticker was never taken off in my recollection.

Q. That first green sticker you saw would that have been on the 5th of September?

25 A. Yes I came back on the Monday.

Q. I think Monday's the 5th.

A. Well no hang on, sorry I came back on the very first day af- or the day that was after that weekend, it would have been after the Sunday, what, yeah.

30 Q. I'll check the date?

A. Yeah, yeah, yeah, yeah, I didn't have a day off.

Q. It was the Monday.

A. Anyway I went back to work after it. Yep.

Q. On the Monday?

A. Yep.

Q. And so you would have been looking at these cracks with that level of comfort?

5 A. Yeah well I did, the level of comfort definitely and also I knew they, they were for the managing director and I didn't want him coming through and coming into our office for more than, thinking it was going to collapse on him so we had, so I had a good look around, thought, "Yes, that's right", and also you've got to remember on this, on this back area through here those walls had been reinforced by 18 inches of solid
10 concrete to take the new fire walls that required when we needed to open up part of this area because originally there was only a tiny wee skinny door the previous tenants had used and that was a massively expensive time consuming job and the other one went across here the same type of reinforcement and I believe to this day that's why that floor
15 did not collapse to the ground.

Q. You're referring are you to the work that was done in 2007?

A. Yeah just, well it actually carried on. I started there in 2008, I carried it through with the actual concrete guys while they were doing it.

20 Q. Right, okay. Now there's just one point of fact I want to clarify with you and that's where you say at, well it's a continuation really of the young girl from Leech and Partners coming down to speak to you?

A. Mhm.

Q. You say in paragraph 14, "After that I decided to ask Holmes Consulting Group etcetera"?

25 A. Mhm.

Q. Now the way I read this and I just ask you to confirm this is what you intend to say is that you made direct contact with Holmes?

30 A. Well I, I just took it into my own hands. First and foremost she was scared, terribly scared and I emailed Louise Sutherland at the same time and said, "Well look" and copied in her as well as Holmes, "This needs to be looked at, I'm not going to leave the tenants feeling this way", and she was okay with that and away we went and I was an adamant point to make sure Holmes came back to me with their view on that particular wall which I did circulate.

Q. Do you recall who you believe you spoke to at Holmes at that point?

A. Originally I dealt with John Hare but this particular time I think it was a chap called Graham, I can't remember his last name but he appeared to be very thorough and they came when I asked, they never let me down,
5 I, um, I found them very efficient.

Q. Do you recall what you said to him when you phoned on this occasion?

A. When I e- in my email.

Q. When you emailed?

A. Well do you mean when he came back to me with the email –

10 Q. No. No I'm referring to paragraph 14 where you say you decided to ask Holmes Consulting Group?

A. Oh well I emailed him. He came back and then all I said to him was, ah, "With these cracks what do you think?" We'd had a good look at this wall and I showed him everywhere the girl's concerns were and he said,
15 "No these are hairline cracks, they're not of significant, um, of damage that could cause problems", and that's all I needed to know and I said, "Well look at this point can you, can you, um, confirm that by email so that I can comfort the girl within the building and all those, all the rest of the people in the building", it wasn't just about us on the ground floor.

20 Q. I'm just going to ask for that email to be brought up so we just have a look at that, it's WIT.MAN.0001.35.

WITNESS REFERRED TO EMAIL

Q. And if you could just start with 37 which I assume you've also got, it's an email chain. Now this is the email, this is the issue that we're talking
25 about isn't it?

A. Yes.

Q. Now this, the reason I want to just clarify this with you is because at least on the emails that we've seen it appears that, well there's no indication of you going direct to the engineers. This email chain at any
30 rate suggests that you went to Louise Sutherland at Harcourts, copied it to Brett Dudley who is at Leech and Co, wasn't he?

A. Mhm, that's right.

Q. So there's what looks to be the first one?

A. Mhm.

- Q. You've had one of the tenants come to you concerned about the hallway?
- A. That's right.
- 5 Q. "And it's very badly cracked, it may pay for the engineers to come back and look at that area. I've been out and had a look and it's a bit of a worry"?
- A. Mhm. That's right.
- Q. And I wonder if we could go to the next email in that chain and I'm not seeking to contradict you but rather to get...?
- 10 A. No sure.
- Q. To just see how this, whether we've got some other emails that we haven't seen. This looks to be the response for that which comes back to you from Ann-Cherie at Harcourts?
- A. Mhm.
- 15 Q. So "Hello Helen, a Holmes Consulting engineer will be on site this morning"?
- A. And that's right, and they did –
- Q. "Your details" –
- A. – and they did come to me and this is one thing I did, when I was struggle in my memory about various things before my role was disestablished I emailed Holmes direct and I dealt with someone in Wellington and I was looking for a particular email that I had got back from Holmes Consulting saying that everything was fine, you know, go ahead and I know for a fact in my head I sent that email around. That
- 20 was the whole point of this concept but to date that email doesn't seem to have been able to have been found and I know it exists.
- 25 Q. Okay.
- A. I know in my head I did it, I know it went round the floors.
- Q. Yes.
- 30 A. This was the beginning of the process and I knew I had a job to do.
- Q. All right but I think there's a few more in this chain. We'll just see if that helps, and then you go back and say, "That's great, that's super because Holmes Consulting know this building very well"?
- A. Yeah.

Q. And then you send it on to Brett Dudley at Leech to say, "Just to keep you in the loop"?

A. Yep.

1455

5 Q. And then the next one, heading through the chronology, is Brett coming back to you asking you did you hear anything, of course you go back to him and say, "No, not yet." And then Brett Dudley comes back to you again and says, "The cracks by the back door seem to have gotten bigger", then you go back to Louise Sutherland, "The Leech tenants are
10 worried," and she goes to Ann-Cherie, who I take it was really the designated property manager for the building, is that your understanding?

A. Yes.

15 Q. And then she goes to Ann-Cherie Manawatu-Tera and then finally, this is the final one that I have seen, is you have got Ms Tera coming back to you and saying, "The structural engineer went through the building again yesterday and advised the cracks in the car park entrance hallway are not structural. Again, I am really just wondering if this helps memory or whether you are still –

20 A. No, I am adamant. I met the guy. We went round the back, through the hallway, he came, saw, he told me he reported to me that by email and that is what I was on the hunt for from Holmes before my role was dis-established. I needed that email. It mattered to me and because all of our background hard drives stuff had been split with the bank going one
25 way and of course PGC going the other, it was going to be hard to find but I had given Sara, a fellow by the name John Stevens who is the IT expert with Perpetual hopefully the opportunity to go through all of our archived work and look. Holmes fellow met me on site. We went round the back and had a good look. I needed to know. I was not content with
30 it coming back from them.

Q. We know who the engineer was from Holmes who did that so he is giving evidence so we will –

A. I am just adamant.

Q. – ask him from his side. Did you get a copy of the actual assessment as you recall it?

5 A. I did not want an assessment, what I was looking for was a confirmation from him by email setting out that things were fine 'cos I trusted in them and that once I had that from them I could circulate it around the building, copy in Louise, Harcourts, everybody was happy and on the same page.

JUSTICE COOPER:

Q. So do you recall receiving the email that is now displayed?

10 A. Yes.

Q. So was that telling you something you already knew?

15 A. Yeah, I, that is telling me something I already knew but I still wasn't content about it because I hadn't seen them and I wasn't sure whether she was talking about the Christchurch City Council, whoever, and I wanted, my role I dealt with Holmes and Holmes only. I never saw a city council engineer on site. I was never looking for one. I wasn't the property manager but I stuck to the truths that I knew in my time as property manager.

20 Q. So when you received this email, can you recall had you already received the one that now cannot be found?

A. I believe –

Q. From Holmes?

A. – I believe it was later on.

Q. What was later on?

25 A. Well, when this all happened, when I first spoke to Sara which was important to me, she brought this stuff up because I was still hunting in my head, thinking and you know where's this stuff? Where's this stuff? And Sara brought it up and then I thought to myself, shivers, maybe I was confused because my true recollection of the situation I believe for me was that the girl from Leech came down after the Boxing Day quake. That was my gut feeling and then this all came up and I thought, jeez it's been such an awful year, you know, maybe I have got it wrong, br, br, br, br [sic] that I don't believe, I believe it was after Boxing Day the girl came down which I'm sure she will know, she still works for Leech by

what I can gather, and I sent off the email saying, "Look, we've got to look at this again," words to that effect. I got an email back which I circulated around the building and after that Brett Dudley came down and thanked me for doing it and I said, "Well I can't leave the girls worried that the building's going to fall down on them."

5

Q. Right well –

A. So there's just some, there's a piece missing somewhere I believe.

Q. Well I think you are now telling us that the missing email, the one that you received from Holmes, was in relation to an inspection made after the Boxing Day earthquake?

10

A. I believe, and that was my initial belief but when this all came up I had to start looking back and thinking well shivers, it's been such an awful year, was it, am I, did I get it wrong? Has time gone that fast? Was it that long ago? And I truly believe it was after Boxing Day because at the time I thought, oh we've hardly got back to work and away we go again.

15

Q. Right, so your current thinking is that those events were after Boxing Day?

A. Yes, and I believe Leech, Brett Dudley needs to probably be spoken to and to the girl associated because he did come down and thank me because I remember him sitting on one of my desks, you know, having a chat about it and I said, "Well the least I can do," I says, "no point in girls coming to work and they're sitting at their desks petrified."

20

Q. Right.

A. And I just, and that was initially why I emailed Holmes and at the time my email went up to Wellington because the team down here then the team up there and I got a whole bunch of stuff back, way back before my time and I thought no, no, no, that's not what I'm looking for. I'm looking for recent stuff, but no one could give me it and that's why I suggested to Sara that she go back through the Perpetual PGC hard drives and see if any of the archived stuff could come up because I'm quite pedantic in making things right because when it was my role to take, look after the building I think I did a first class job.

25

30

Q. Now just tell me Sara is?

A. Jamieson.

Q. Our Sara?

A. Yes. Your Sara

JUSTICE COOPER:

Yes Mr Mills, I interrupted you I think.

5

MR MILLS:

No, no, you did not.

EXAMINATION CONTINUES: MR MILLS

10 Q. The only thing I can contribute to this discussion is that there was another inspection done by the Holmes people on the 27th of January.

A. Yes.

Q. But is it possible that is the one you were thinking of as post-Boxing Day?

A. Well if they can say there was one man from Holmes and myself.

15 Q. Yes.

A. If they can confirm that I was it, Helen Golding, they knew my name, that I'd dealt with them many times before but there was one guy and I'm sure his name was Graham, I know I was usually used to working with John Hare 'cos I had dealt with him over the issues with the
20 columns on the outside of the building and they always reported back to me and of course I had to get the approval of the company secretary to do any work that was major. We had to get a quote always before we could go forward.

Q. We will see if we can find out anything more about this but that is all.

25 **CROSS-EXAMINATION: COMISSIONERS AND COUNSEL – NIL**

MR HERON TO JUSTICE COOPER:

Q. Just one issue, Mr West was giving evidence, just a point about those photographs –

A. Which ones?

5 Q. You will remember the Alistair Boys photographs –

A. Yes.

Q. – that he was looking at?

A. Yes.

10 Q. I have looked at them now on your website in colour and it becomes very apparent that the black and white copies are not misleading but just show a different picture, if I might put it that way? Once you look at the colour and then you can see the scale and the colour demonstrates that there is some redlining technique. It has either been drawn on, what you see in black and white is not the actual cracks, it is the red lining as I understand it, if you understand my meaning?

A. Well not really. I do not really follow that.

Q. If you look at the colour version Sir?

A. Yes. If we looked at the coloured versions we would see a different picture?

20 Q. That is a much more eloquent way of expressing it.

A. Well it does not tell me anything more though. We need to go and see the coloured –

Q. Yes, if you look at them and sorry I will get you your document reference is cam233.0054.23, it's 0054.23 and you'll see, I hope, immediately what I'm talking about?

25 A. Yeah.

1505

Q. That's quite a different representation of the cracks.

A. All right, thank you.

30

MR PARKER ADDRESSES THE COMMISSION

Your Honour, I don't wish to address you and the other Commissioners in opening, but I would like to retain the same privilege as Mr Laing which was if

the need arises the opportunity to crisply address some written submissions to the Commission should that be required.

JUSTICE COOPER ADDRESSES MR HERON

- 5 Q. Mr Heron are you in the same camp or do you not want to make submissions at all.
- A. Yes I am if they're required, they would be of some assistance, I'm happy to provide them.

10

MR PARKER CALLS**HOWARD CRAIG BUCHANAN (AFFIRMED)**

Q. Is your full name Howard Craig Buchanan of Christchurch?

A. It is.

5 Q. And you're commercial manager of Grenadier Real Estate Limited which trades now as NAI Harcourts. Is that correct?

A. That's correct.

10 Q. It's the position isn't it Mr Buchanan that for some weeks now you have been assisting the Commission by the provision of various documents and correspondence relating to the PGC building?

A. That's correct.

Q. And I think in addition to the provision of that material you've prepared a brief of evidence to give evidence to the Commissioners today?

A. Yes.

15 Q. And do you have a copy of that in front of you?

A. I do.

Q. Could I ask you to commence reading from paragraph 1 please, and I'm going to stop you when you get to the end of paragraph 4.

A. Certainly.

20 **WITNESS READS BRIEF OF EVIDENCE**

A. I'm the commercial manager of Grenadier Real Estate Limited, trading as NAI Harcourts, Harcourts in Christchurch. I have been employed as a commercial manager with Harcourts since February 2006. My role is the overall management of a commercial team which encompasses
25 commercial property managers, sales and leasing agents, and administration support staff. Prior to the 22nd of February 2011 earthquake, we had some 100 properties within our portfolio under management. Ann-Cherie Manawatu-Pearcy and Louise Sutherland were both involved in the management of the PGC building located at
30 233 Cambridge Terrace, Christchurch since we took over the management of the building, and I understand have provided briefs in respect of their roles. I did not have day to day carriage of looking after this building but was involved from time to time and emails would come to me in relation to it. I understand that I am required by the Canterbury

Earthquake's Royal Commission to comment upon information within my knowledge in respect to (a) any work or maintenance that was carried out on the building before September 2010, and (b) instructions given to engineers to carry out the building inspections, and the advice
5 engineers provided, and (c) communications with tenants and engineers about the building assessments between 4th of September 2010 and 22nd of February 2011. As part of the Royal Commission's enquiry into the collapse of the building, I have contacted Scott Thompson who is the technical services manager of Maintenance Services for Spotless
10 Facility Services New Zealand Limited which provided maintenance services to the building.

Q. Yes, if you could stop there for a moment. Your Honour can see that from paragraphs 5 to 12 are attached statements that have been gleaned by Mr Thompson of Spotless and I'm not sure that it's of any
15 benefit really to read those paragraphs. They simply attach very brief reports from tradesmen and service people which the Commission can easily read, they're quite brief.

JUSTICE COOPER ADDRESSES MR PARKER

20 Perhaps we'll just read them to ourselves and because there are members of the public here, can the attachments be displayed. They've all got numbers, WITBUC0001.6, .7, .8, .9 and 10 and 11, and 12 and 13. So just go through those giving people time to read them if you would.

1515

25 EXAMINATION CONTINUES: MR PARKER

Q. If I could have you, Mr Buchanan, start reading at paragraph 13 again please.

A. Spotless was engaged to undertake numerous maintenance tasks on the PGC building but these above-named mentioned persons are the
30 only persons that I am aware of that were involved in such work in respect to the earthquake from the 4th of September 2010. I attach, marked T, a copy of the Management Reports that were provided on a monthly basis to the owner of the PGC building, Cambridge 233 Limited.

5 These maintenance reports are from September 2010 up to and including February 2011. Financial reports have not been attached due to client confidentiality and I did not consider that they were relevant to this enquiry. I am aware that when Cambridge 233 Limited purchased the building there were outstanding issues in respect to remedial work that had been previously undertaken and I attach, marked J, a Code of Compliance Certificate and email that identifies that this is in respect to work undertaken by Marsh, one of the tenants in the building. I have already provided to the Canterbury Earthquake's Royal Commission 10 copies of Holmes Consulting Group's Engineering Reports that were within my knowledge, power and control. The brief of evidence of Louise Sutherland provides a maintenance log in respect to any work or maintenance that was carried out on the building and Ann-Cherie Manawatu-Pearcy's brief of evidence further deals with any other 15 instructions and communications with tenants and engineers. I cannot comment any further on the structure of the building or on the engineering reports as this is not within my knowledge or expertise. During my time of managing this property I'm not aware of any earthquake related issues that became apparent before the 4th of 20 September 2010.

Q. Can I just ask you some supplementary things. First of all at the time of the September 4 earthquake how many properties were you and your company managing?

A. Approximately 100.

25 Q. And can I assume that some might be similar to this, which is to say, multi-storeyed, multi-tenanted right down to individual buildings?

A. That's correct. There were approximately 32 in the CBD and the remainder were outside the CBD as far away as Rangiora.

Q. And were all of them required subsequent to the earthquake to be 30 assessed in some way?

A. Correct. Do you want me to add to that?

Q. If you have something to add that will assist the Commission then indeed.

- 5 A. Yes, on the morning of the 4th of September I contacted John Hare from Holmes Consulting Group and I instructed John to inspect all of our portfolio. At that stage on the morning of 4th of September the green sticker system wasn't in place nor did I know what it was and this was the first time this event had happened to me or any of my team but I asked John Hare to inspect, to organise to inspect our entire portfolio.
- Q. And you went to Mr Hare of Holmes Consulting because you've dealt with him before?
- 10 A. Yes we'd dealt with Holmes Consulting Group many times before and with many buildings which we took over management of, um, Holmes Consulting Group often knew the history of those buildings. They often had access to drawings and that would obviously be an advantage in many cases but other than that we found them an efficient firm that were very professional.
- 15 Q. Right, and in relation to the PGC building were you aware at that time that Holmes Consulting Group had a history of, knowledge of the building going back some time?
- A. No.
- 20 Q. And when was the first time that someone from Holmes attended at the PGC building after the 4th?
- A. My recollection is that I arranged with John Hare to meet Richard Seville who is the, at the time the manager from, an engineer from Holmes Consulting Group who was in charge of distributing work amongst the engineers from Holmes and arranged to meet him on the Sunday, that's 25 the Sunday immediately following quake the 5th with the intention of establishing a procedure and a priority list for inspection of our entire portfolio. We also wanted to get our own five storey building checked on the Sunday because if we could get our own five storey building checked get my property management team up and running on the 30 Monday the 6th. That would help us to help others to clear the buildings to arrange engineers to communicate and get all those buildings inspected.

Q. Where was your building?

A. Ah, it's the 271 Madras Street building just north of Cranmer Square that isn't there anymore, um, that was badly damaged on the 22nd of February and has since been demolished.

5

EXAMINATION CONTINUES: MR PARKER

10 A. So on the Sunday, um, I met with Richard Seville and one of the things we did, um, was we actually, the PGC building was within a cordon and I can't recall exactly, um, why but I think it was because we'd heard from, um, Marsh that the ceilings had come down on the top floor. We actually, ah, went through the cordon and went to the building and when we got to the building we saw that it had a green sticker, um, and at that stage we decided to go back to the office, have our building checked and work out a priority for, um, inspecting the portfolio as I said and PGC was on the top of that priority list.

15

Q. Why was that?

A. Ah, it was just one of the multi-storey buildings in town, um, that were of a high priority for us and I'm pretty sure at that stage we knew that the ceilings had, um, come down from the top floor.

20

Q. Right, how had you got that information?

A. I can't recall, um, Marsh may have called.

Q. Right, when did you first have contact with the building owner. I know it's a company but behind the company is Mr Collins. When did you make contact with him?

25

A. Um, I would have made contact, I made contact with, um, most, several owners, um, in the first two days on the 4th of September and the 5th of September. It's fair to say I didn't sleep much on those two days, um, there were so many people to deal with – tenants, owners, engineers, um, we had our own house to deal with and our own properties to deal with, um, thinking of our staff who had their own properties to deal with and, um, some of their families' properties to deal with. They were in, um, various states of liveability, um, so I was actually very pleased when all of my property management staff were able to turn up for work on

30

Monday despite their personal situations and help us to help, um, get those buildings safe and secure.

Q. Do I gather from the first part of what you had to say that you must have spoken to Mr Collins either on the 4th itself or on the Sunday the 5th?

5 A. Correct.

Q. And what were his instructions to you?

A. Um, I think it was probably more a case of me saying, "Steve I'm getting your buildings checked by an engineer to make sure they're safe and I've already taken the initiative of getting Holmes Consulting Group to inspect your portfolio amongst our portfolio."

10

Q. Right so there no particular instruction relating to the PGC building?

A. No.

Q. There was some suggestion put to Mr Collins yesterday that there may have been some financial restriction on what could be spent in relation to engineering or any other assistance to this building in particular obviously we're concerned with. Was that ever part of your instructions?

15

A. No.

Q. Do you recall whether in the first few days of the aftermath of the 4th of September earthquake that you had to start spending significant amounts of money?

20

A. Yes. Within the first two days we had the replacement of the, ripping down of the old very heavy ceilings in the Marsh space on the top floor and I was involved in that, getting that priced very quickly by Spotless and a sub-contractor and the cost was 28,000 and dealing with the representative from Marsh from Auckland who was in charge of facilities. We got that approved and we got the approval from the broker which happened also to be Marsh to go ahead with that works so the replacement of the ceilings which did cost \$28,000 plus GST was started, ordered on the 7th of September.

25

30

Q. Right, okay so that's the Tuesday after the earthquake?

A. The Tuesday following the quake.

Q. In your dealings with Holmes was there any appreciation by you in any way that they were somehow limited in their task, that they were only required to do a initial preliminary review of this or any other building in your portfolio?

5 A. Ah, no, um, they inspected, um, many, many buildings from our portfolio and where the initial inspection showed areas of concern for them or it was concern for them because of the history of the building or the knowledge or the construction of the building, then they would give us further instructions, um, or require a further inspection to detail remedial
10 works to have it priced, to have it specified and have it undertaken and, ah, in many cases that happened.

Q. So they would go in and review, assess a property and if they advised you that further work was required –

A. Mhm.

15 Q. – that was then conducted?

A. Correct and some of it was quite extensive. Some of it involved buildings being yellow stickered so that, um, occupation was not allowed.

Q. Right and what was the level of contact between you personally and
20 then secondly your team with Holmes Consulting, how frequent was that?

A. Um, ah, constant during the day. We, from the Sunday meeting, ah, we organised a Monday meeting with Holmes Consulting Group and I, another senior property manager Chris Chapman and I would meet with
25 Holmes Consulting Group on a, every second day, um, and go through the priority list for the building, what we discovered, where, where we needed to have secondary visits where work had to be undertaken where he had to call in other engineers, um, and I was also having meetings with my team to, um, divulge that information to them where it
30 affected them for their separate portfolios.

Q. All right.

A. So it was a constant, um, it was our main task, it was the priority task for that week, or weeks.

Q. And were you dealing day to day with the PGC building or was that the function of other members of your team?

5 A. Um, I dealt with it only in respect of those first couple of days and hand-really handed it, set the, set the tone of, um, and the policy for inspecting buildings and getting them re-inspected and I explained to the team that if there was any further doubt or further damage reported on these buildings to readily get them inspected. There were no limits placed on that, um, yeah.

10 Q. What was your experience of Holmes if you gave them an instruction or your company gave them an instruction to inspect a property and PGC as well? What was the reaction time?

15 A. Ah, generally, generally very good, um, that probably changed, um, in the New Year when, ah, I believe, um, Holmes became more, um, ah, committed with some of the other buildings, particularly the Art Centre and, um, so when every quake happened we organised alternative firms to make sure we had the capacity to inspect our, our buildings very quickly.

Q. Right.

20 A. And we, we supplemented the Holmes Consulting Group even after the 4 September with other engineers where they were readily available.

Q. The term was used by Mr Collins in his evidence yesterday that work by Holmes would be peer reviewed. Is that your understanding of what happened on occasion and specifically did it ever occur or was it raised as being required for the PGC building?

25 A. Um, peer reviews have been in my experience since the earthquake used more for where, um, an engineer is required to assess whether a building is going to, is repairable or whether it should be, whether it's uneconomic to repair, um, and that involves insurance companies and big decisions about the future of buildings. So a peer review has been
30 more common in that situation.

Q. Right.

A. There would only be a need for a peer review if there was any reason to doubt what the engineer said on his inspection of the building.

Q. And of your knowledge was there, had you ever received any information that indicated a doubt by Holmes about what they were saying as far as the ability to occupy the PGC building was concerned?

A. No.

5 Q. What did you understand that their role would be, what was the purpose of their, first of all the initial assessment that they did very soon after the earthquake in relation to the PGC building, indeed any other building, and then subsequently when they were asked to come back?

10 A. Um, the role is to make sure the building was safe to occupy, ah, inspect the building as much as they, they needed fit, saw fit, um, and obviously that involved an interior inspection and inspection of the main structural features of the building but, um, I'm not an engineer, um, we employed them as experts to look at the building and inspect whatever they needed to see to satisfy them that it was safe to occupy.

15 Q. And in assuring tenants of whether or not a building such as PGC was safe to occupy were you purporting to give any recommendation or were you relying upon the engineering expertise that was coming your way?

A. No we were relying on the engineering, the expertise.

20 Q. Right. Did you regard any inspections that were being done by Holmes on the PGC building as being in any way constrained or limited?

A. No, not, not in any way.

Q. And in your experience of dealing with Holmes if they saw a problem would they tell you?

25 A. Yes, ah, there's plenty of examples of a building in Lichfield Street that was yellow stickered had to have temporary works undertaken, ah, to repair it on two occasions, it happened also on the 26th, the Boxing Day quake and Holmes spent hours in, at the building inspecting the parapets of that particular building, um, and then detailing the work required to remove and secure those parapets so those, if, if need be
30 they literally spent hours at buildings and did so.

COMMISSION ADJOURNS: 3.32 PM

COMMISSION RESUMES: 3.48 PM**EXAMINATION CONTINUES: MR PARKER**

5 Q. Mr Buchanan, the purpose of this proceeding is in many ways to see what can be learned from the tragic circumstances, in particular this week, of what occurred at the PGC building, based upon your involvement from your own particular discipline, and you're dealing with the other people who were involved with this building. Have you dwelt on the question of what can be drawn from these circumstances that
10 might assist the community should something like this occur again?

A. Yes.

Q. And can you assist the Commission with your thoughts on that?

A. There – I think when it comes to having buildings inspected after an earthquake, I think there needs to be coordination between the City
15 Council and Civil Defence, and engineers employed by owners to better identify buildings at risk of failure in earthquakes. This PGC building was assessed by – on a Christchurch City Council rapid assessment form on the 16th of September as having 0 to 1% overall building damage. It's a form that is on file. I believe that was undertaken by
20 Alistair Boys from Holmes Consulting Group, so if a building that's showing estimated overall building damage of 0 to 1% and subsequently fail, then it's not an easy task to identify those buildings.

MR MILLS ADDRESSES THE COMMISSION

25 Q. Just before I start dealing with questions I just want to raise an issue about the procedure –

A. Yes.

Q. – that's being followed here, and I must say if this had been a trial I think I would have been on my feet a little while ago saying what we're really doing is getting the evidence now rather than in the written statement.

30 A. Yes.

Q. It doesn't comply with the practice note, I'm not of course, in this context in a trial and I'm – and this is going to run as it runs, but if this became a

pattern that we began to get into on some of the major hearings that we've got, and this is one of them, but that we've got another one coming which the Commissioners know about which is significantly more complicated and major, this simply won't work. None of this was
5 put to Mr Collins yesterday as it should have been and so I simply want to put effectively a stake in the ground over this - invite the Commissioners to, on a process that really hasn't been satisfactory.

JUSTICE COOPER ADDRESSES MR MILLS

10 Q. All right, I'm not sure what in particular is concerning you about matters not put to Mr Collins because they – Mr Buchanan and Mr Collins seem to be saying pretty much the same thing -

A. (inaudible 15:52:24) they are.

15 Q. – on the essential, what it all comes down to but do you want to articulate your concern a little bit more?

A. Well it's first and foremost a concern about the general process of these hearings, now Mr Hannan for Holmes might have more concerns about this than I do on the substance of it, but the practice note required the statements by a certain date –

20 Q. Yes.

A. – it made a provision for replies and the fact is that the substance of what's just been led orally is considerably more substantive than what's in the short written brief, and I would be – I don't feel particularly disadvantaged myself, largely for the reason that Your Honour just
25 noted, but I am concerned that the hearing's not proceed generally in this way, this is a one-off, no doubt if Mr Hannan's got a point to make about it he will, but I feel that I need as counsel assisting to just make the point.

Q. Yes.

30 A. This is not the procedure that's provided for.

Q. All right.

A. Now I'll deal with some questions.

CROSS-EXAMINATION: MR MILLS

Q. Perhaps the first thing I should do just to see if there is an issue between you and Mr Collins - I've got the transcript of the evidence that was taken when Mr Collins was giving evidence, it's only just been handed to me, so you'll have to bear with me if – I'm just looking at this really for the first time, but I think the easiest way to deal with this is just to put to you the key points that he gave in his evidence about the instructions he gave to Harcourts and specifically to you initially, and to see if there is any disagreement between the two of you. Now I asked him, well the first thing I asked him was, "When he put through the phone call to you, which he said he'd made, after the 4th September earthquake, and gave him instructions, gave you instructions on arranging immediate inspections, did he ever see the contract that was subsequently entered into between Harcourts and Holmes," and I'll go to that contract later, but you know the one I'm talking about don't you, and he said, "No, he didn't." Now is that consistent with your understanding that –

A. Yes.

Q. – he would never have seen that?

A. Correct.

Q. Then I said to him, "So as far as you were concerned the instruction you gave was an unconditional, I want an immediate inspection of all my properties by a structural engineer to confirm that they are safe to occupy before tenants go back," and he said after a couple of questions along the way, "Correct." Now is that consistent with what you think he told you?

A. Yes.

Q. Do you want me to go over that again so that – I notice you're looking a little – I just wondered if you needed me to read that to you again?

A. You're welcome to.

Q. "I want an immediate inspection of all my buildings by a structural engineer to confirm that they are safe to occupy before tenants go back."

A. I think that's generally in accordance with what he said.

Q. Yes.

A. Yeah.

Q. And I asked him again, because I wanted to be sure that he was agreeing to this, "That it was an unconditional instruction, in other words no limits around it, that's what I want, it's unconditional," and again he

5 said, "Correct." You agree with that?

A. Unconditional in terms of –

Q. (overtalking 15:56:30). Uncondition – well I want this kind of inspection but not that kind of inspection, unconditional in that sense?

A. He didn't apply any conditions.

10 Q. Yes. And then I asked him would he, "Confirm that he wanted a structural engineer to confirm the building was safe." "Yes," he said, again that's what – you agree with that I take it.

A. Yes I think that when he said a structural engineer had inspected all the buildings, the green sticker which needed a structural engineer from the

15 Council or, and another organisation inspected the building, would suffice for the occupation of the building.

Q. Do you think he said that specifically to you?

A. I don't think that in that first weekend many people understood what a green sticker meant.

20 Q. So you're not suggesting that that was part of his instruction to you?

A. Correct.

Q. I then took him through the monthly reports that Harcourts had given to him as the owner of the PGC building. He confirmed he had received them. Who prepared those reports?

25 A. Generally they were prepared by, for that building, by Ann-Cherie.

1558

JUSTICE COOPER:

Q. By who?

A. Ann-Cherie Manawatu.

30 Q. Your voice is becoming a little difficult to hear.

A. Sorry. Sorry. Um, in saying that we, ah, in the meetings immediately following, um, the 4 September, I determined a policy for informing our

owners the status of their buildings and they followed that and updated it on, at every monthly report.

CROSS-EXAMINATION CONTINUES: MR MILLS

5 Q. Yes, and would you have seen the reports that were going out to Mr Collins on the PGC building?

A. Ah, from time to time I saw reports, not everyone.

Q. And you'd be aware that they were, with one minor exception for October, consistently saying safe to occupy structurally?

10 A. Correct, which was representative of what the engineers were conveying to us.

Q. Right. And I asked Mr Collins whether what was coming back would have been consistent with the instruction been given to you and he said, "Yes in effect that's what I was looking for, someone to, that's the assurance I was looking for"?

15 A. (No audible answer 15:59:30)

Q. Then he said that he had no particular involvement after turning the matter over to Harcourts. As far as he was concerned you were the building managers for PGC, he told you what he wanted and after that it was really over to you and what you chose to do. That be correct?

20 A. Ah, that's, that's pretty much the case. The only involvement we had after that was when we got the \$28,000 worth of repairs undertaken, um, ah, for the, to repair the ceiling at Marsh's tenancy.

Q. Yes.

25 A. And he was involved in that process, um, and even though it was fully, um, paid for by insurance it's always policy to make sure the owner's aware of that.

Q. Yes.

A. And happy with that to proceed.

30 Q. Did you regard yourselves as having from the outset of this instruction that we've just discussed from Mr Collins who Harcourts, as having a cap on the amount of expenditure that you could incur without reference to him?

- A. Under normal circumstances in the property management agreement there are generally caps on the amount of expenditure we can make without consulting the owner and it varies between say \$500,000 and in the case of an emergency like this we didn't adhere to that. We had an
5 emergency, we had to make sure the buildings were safe, um, we didn't discuss costs at any stage with virtually any of our clients in regards to the inspection of those buildings. They had to be inspected.
- Q. Yes.
- A. We had to engage professional engineers to inspect those buildings.
- 10 Q. And you never had any complaint from Mr Collins about a bill that he received for this?
- A. Absolutely not.
- Q. Did you get any occasions and you may have alluded to this when you were being asked by your counsel previously about your evidence, did
15 you ever get any occasions with buildings that you were managing during this period where the engineering report came back from Holmes saying that this building needs more detailed assessment?
- A. Yes.
- Q. Can you recall the circumstances?
- 20 A. Ah, yes there is a building in Riccarton Road which is four stories.
- Q. Yes.
- A. And Holmes identified that a section of the floor in the building, ah, was moving and they wanted the structure to be looked at or at least the structure of the floor to be looked at, um, and it had to be opened up,
25 inspected, re-inspected by the engineer when that contractor was available to do that work and then repairs were specified and the work was carried out and in that period that section of the building which was part of level 1 was yellow stickered so that it was unable to be occupied.
- Q. And so that was a two stage process was it where Holmes had gone in
30 initially and then come back and said we need to do more?
- A. Correct and that was repeated in many situations, um, around our portfolio and in some cases it resulted in green stickered buildings becoming yellow or yellow stickered becoming, buildings becoming green again when they re-inspected.

Q. Right. I think what I'd like to do is just have the contract that you signed put up so we can have a look at that and that's BUI.CAM233.0054.18, at least I hope it is.

WITNESS REFERRED TO CONTRACT

5 Q. If they could be enlarged. It's the little bit in the, well really the scope and nature of services is the part I want to ask Mr Buchanan about. No see that's the contract that you signed over the PGC building with Holmes and it describes it, you can see in front of you, "Initial earthquake inspection". Now the date on which you signed that contract
10 which is –

A. Sunday the 5th.

Q. Fifth. What was your understanding of the meaning of initial earthquake inspection?

A. We wanted to get the buildings checked internally and structurally to
15 make sure they were safe to occupy.

Q. And so do I take it that to you at any rate the word initial just meant a first inspection, it wasn't suggesting a limited inspection in any way?

A. It wasn't limited in any way.

Q. So you're saying that whatever was necessary to engage in, in the
20 course of that inspection to give this assurance of safe to occupy that's what this contract was intended to authorise?

A. Yes and that's exactly what, ah, transpired for the entire portfolio.

Q. Yes.

A. They did more work than an initial earthquake inspection.

25 Q. Well let me ask you again then just to be sure that we are on the same page here, when you say they did more than the initial earthquake inspection what exactly are you meaning by that?

A. That they went on to do, ah, further inspections, more in-depth inspections, design remedial works, supervise remedial works,
30 re-inspect remedial works and in some, and change the, um, occupation of the buildings in some, in some instances.

Q. So should I take from that that for the initial earthquake inspection you weren't expecting it to be a really in-depth inspection?

A. Ah, no it's, it's secure, securing measures as considered necessary.

- Q. The, the evidence that Mr Holmes is going to give, at least I expect he's going to, it's in the, in the written evidence that's yet to be given, and I probably should bring it up so we can have a look at this but it talks about doing an initial inspection and then carrying out a further inspection if that was required and I wonder if we could just bring that up, it's WIT.HAR.0001.7 and then it carries over to page 8 and it's in his witness statement paragraphs 30 to 33.

WITNESS REFERRED TO WITNESS STATEMENT – TAB 14

JUSTICE COOPER:

- 10 This is Mr Hare, H-A-R-E. You said Holmes.

MR MILLS:

Oh did I. It must be getting late in the day or something.

CROSS-EXAMINATION CONTINUES: MR MILLS

1608

- 15 Q. Now you see there, Mr Buchanan, what, what is said here and actually made as an oath under the Oaths and Declarations Act so it has been sworn, "But Holmes carried out inspections of the PGC building on four different dates in mid to late January", one is the 27th as a matter of record, you got instructions from Harcourts, "We were engaged to carry out an initial earthquake inspection and securing measures as considered necessary," and then he says at paragraph 31, "All inspections were carried out in compliance with level 2 post-earthquake inspection requirements taking into account the verbal briefings given by Christchurch City Council civil defence in regard to what was expected from level 2 assessments. Such inspections generally comprise a rapid visual inspection to identify any obvious signs of damage that might result in significant diminished structural capacity. The inspections are by their very nature brief and are not expected to include any plan review or analysis of the building or any sort of invasive inspection of the structural elements. This level of inspection was generally considered appropriate for determining whether buildings were suitable for

occupation subject to recommendations for further detailed assessment. At no stage, as far as I am aware, was Holmes requested to undertake detailed assessments.” Now my question to you, is that a surprise? That that is what Holmes said they were doing?

5 A. What Holmes, what we expected Holmes to do was as a professional engineer inspect the building, determine whether it was safe to occupy and determine if anything further given their knowledge being experts and knowledge of the building, information that would be further required or if a further inspection was required to come up with that information to us which is what they did on our portfolio.

10

Q. So did you know at the date of entering into that contract that we just looked at that all that was being done is what has been described in paragraph 31, “A rapid visual inspection for identifying any obvious signs. The inspections are, by their very nature, brief and are not expected to include any plan review or analysis of a building or any sort of invasive inspection of the structural elements.” Did you know that is all that they were going to do?

15

A. For the first inspection, yes. It would be, do you know what is involved in doing a fully detailed inspection of a building?

20

Q. Yes I have a fairly good idea of that.

A. Mmm.

Q. And all I am trying to clarify, and I think we have, is that you knew that what Holmes was doing was what is described in paragraph 31?

25

A. That only applies to the very first inspection. In my view because if Holmes identified things that they were concerned about or that others were concerned about we would get, they would go back, say they needed to go back in or we would say you need to go back in and do more in-depth analysis, whatever that means as a professional engineer.

30

Q. And was this the same pattern or practice that was being followed with each of the other 32 buildings that you had in the CBD which I think you said needed engineering inspections?

A. Correct.

- Q. You have been around the building field, I know you are in a management role, but you have been around the building field for a long time I assume?
- A. Yes.
- 5 Q. Do you think that, based on that type of inspection, that the language, “Safe to occupy structurally” was appropriate?
- A. I'm not an engineer, but I've seen a lot of damaged buildings now and when Alistair Boys can conclude that building has only 0-1% overall damage then overall I would have thought yes.
- 10 Q. You never told Mr Collins that this is all that was being done, did you?
- A. No. Didn't –
- Q. Does your experience –
- A. If I could just qualify that? There was no need to say that that was all that was being done because the initial inspection was followed up with
- 15 further inspections.
- Q. But it was not on the PGC building was it?
- A. There were more inspections of the building.
- Q. But Mr Holmes is saying here at paragraph 31, “All inspections on the PGC building were carried out on that basis.” So –
- 20 A. As I said before, as professional engineers we would expect them to and they did notify us of anything during any of the first or subsequent inspections that required further attention from themselves or any other professional or remedial works.
- Q. Are you sufficiently familiar with the building field to know that damage
- 25 can actually be quite hidden in a building?
- A. Yes.
- Q. And what has been described here would not pick up hidden damage, would it?
- A. No, in many cases the engineers asked to have a contractor to remove
- 30 all linings of specific structural members of the building so that they could be fully inspected.
- Q. And if one wanted to give an assurance that a building was safe to occupy do you not agree that that step at least would need to be taken?

- A. It varies from building to building as to how much of the structure is visible for them to look at without removing linings and we take the advice of engineers about what they can and cannot see and if they do in fact need to remove wall linings or not.
- 5 Q. Again by reference to the experience you have had of being around the building industry, do you think that in order to understand a building one needs to look at the structural drawings of the building?
- A. In this case Holmes actually did have a history with the building and had carried out very detailed assessments of the building prior so in this case you would have thought that with the information they had in the background, if they had particular concerns then as a professional engineer that we engaged they would bring that to the table.
- 10 Q. Let us take it in stages. That might be true but on this question of whether in your view based on your experience of being around the building industry for many years, do you think that, leaving aside any existing knowledge they might have had, that in order to understand the structural nature of a building, certainly a building of this kind, commercial building, multi-level, you need to look at the structural drawings?
- 15 Q. Let us take it in stages. That might be true but on this question of whether in your view based on your experience of being around the building industry for many years, do you think that, leaving aside any existing knowledge they might have had, that in order to understand the structural nature of a building, certainly a building of this kind, commercial building, multi-level, you need to look at the structural drawings?
- 20 A. I'm not an engineer.
- Q. No I'm just asking you for your view from being –
- A. No I'd have –
- Q. – around that?
- A. – to take advice from professionals on that point.
- 25 Q. You knew, I think you have agreed, that you knew what they were doing as they have set out in paragraph 31 so you knew that they were not doing a review of the plan or structural drawings, which I take it is what is covered by plan?
- A. That was not recommended by them - I would have expected them to recommend it had they thought it been necessary.
- 30 Q. Did that come up at all in the discussion that you said that you had with them on that Sunday I think it was when you initially were the one laying out the plan for the way in which these inspections would be carried out?

A. Sorry what was your question again? What came up?

Q. I think you said that when you were being led by your counsel –

A. Yep.

5 Q. – that you met on the Sunday with Mr Serville, Richard Serville I think it is from Holmes?

A. Correct.

10 Q. To discuss and plan out how these inspections would be done after which you stepped back and turned it over to other people within the firm, and I am asking you whether the issue of whether there would be an examination of structural drawings came up in the course of those discussions?

15 A. Not in those initial discussions and they came up in subsequent discussions when we met with Richard on a regular basis and the engineers and talked about specific buildings and their specific problems and then in some cases we were asked to help locate drawings and help them with more in-depth investigations where there was concern.

1618

20 Q. Do I take it you would have known from that that because you weren't asked for assistance with PGC that you knew that they weren't doing that on that building?

A. It wasn't recommended by them at any stage and there was nothing in their reports which indicated that was going to be necessary.

25 Q. Now those monthly reports that we looked at a moment ago, they are at the back of your witness statement aren't they?

A. Mhm, mhm.

30 Q. I just want to go if we can put it up again to WIT.BUC.0001.15 can you just enlarge a little bit under that heading, "Earthquake". This is your Harcourts monthly report. I'm just interested in that language that's used there. This is a report to Mr Collins, "Following the 7.1 magnitude earthquake on Saturday 4 September we have been working alongside structural engineers to ensure all buildings under our management were safe to occupy." And is what you've just been describing here, what you've just been describing is the working alongside the structural

engineers to ensure all buildings under our management were safe to occupy?

A. Correct.

5 Q. Is there anything more than that that you were doing with the engineers to ensure this?

A. On a building by building basis, um, there was more meetings, more detail, more inspections as required and working in conjunction with those engineers.

CROSS-EXAMINATION: MR ELLIOTT

10 Q. Mr Buchanan your role is the overall management is it of the commercial team there at Harcourts?

A. Correct.

Q. And how long have you known Mr Collins?

A. I'd estimate 11 years, possibly a few more.

15 Q. Is that a working relationship during that time?

A. Yes. I was previously managing commercial property with Baileys Real Estate for 11 years since 1995 and so for a time I managed properties which were owned by Stephen or his companies, um, prior to working with Harcourts.

20 Q. Is he a friend as well?

A. No, just an acquaintance.

25 Q. I want to refer you to a statement he made in his brief and this was relating to his purchase or his company's purchase of the PGC building and he said the agreement was conditional upon due diligence and to satisfy some of the conditions one of the things was that Harcourts obtained a building warrant of fitness report from Plant and Safety Limited?

A. Yes.

30 Q. And that's document WIT.COL.0002.56. That should come up on your screen. So firstly Mr Collins is correct is he that Harcourts did obtain that document as part of that due diligence process?

A. Yes.

Q. Were you involved in that process?

A. Yes.

5 Q. And you'll see that the second last bullet point under the summary heading, you've seen it, I'll read it out. "This building is potentially earthquake-prone. Remedial works may be required as a condition of future building consents." This was obtained in the period when the contract was conditional on due diligence?

A. Correct.

10 Q. And what Mr Collins has told the Royal Commission is that this issue and others on the LIM were not drawn to his attention and there were no discussions of it with me at the time. Is that correct?

A. Correct.

Q. Have you ever brought this issue to Mr Collins' attention that the building was potentially earthquake-prone?

A. No.

15 Q. Did you bring to Holmes Consulting's attention in your discussions with them when you enlisted them the PGC building was potentially earthquake-prone?

A. No I didn't but I subsequently understood that they knew the history of the building extremely well.

20 Q. Subsequent to its collapse?

A. No, um, there's an email which you've seen today from Helen Golding confirming to us that Holmes Consulting Group were very familiar with the building.

25 Q. Confirming that Helen Golding believed they were very familiar with the building?

A. Yes.

Q. How long have you worked in the commercial property management field?

A. Since 1995.

30 Q. And you're familiar with the changes to the Building Act in 2004, in particular the earthquake-prone provisions of the Act?

A. Yes, reasonably familiar with it.

- Q. Have owners in your clientele, client base have come to you before have they and asked you to assist pre September 2010 in identifying whether a building might be earthquake-prone?
- 5 A. No, not that specific and on this building I was instructed by Stephen personally to get the condition report on the building and there was no instruction given at any time to look at the structure of the building or request a LIM. We did not see the LIM nor were we involved in any other way in the due diligence of the purchase of that building. I was asked for a building condition report.
- 10 Q. In the period between when the Building Act came in in 2004, the new Building Act in September 2010, had you been involved with any of your clients on addressing the potential of that building being earthquake-prone?
- A. Yes.
- 15 Q. And in the course of those dealings had you dealt with engineers to address that question?
- A. Yes.
- Q. And in the course of those dealings did you come to learn that the range of inspections and investigations engineers could do ranged up to what we might call a full detailed inspection of a building?
- 20 A. Yes.
- Q. And the full detailed inspection of the building would be substantially more expensive than an initial inspection of a building?
- A. In the context of what we're talking about now the time also is a very big factor in getting a full, um, structural analysis of a building, more so than
- 25 the cost in this instance was not an issue.
- Q. But there is a difference in cost?
- A. Oh absolutely.
- Q. A big difference?
- 30 A. Mmm.
- Q. Thousands of dollars?
- A. Oh yeah, yes definitely thousands of dollars.

Q. The decision about whether a particular building would be opened, re-opened after the September earthquakes was a decision which would carry life and death implications would you agree?

A. Yes.

5 Q. Did you consider it in those terms in the period after September 4, 2010?

A. Yes.

Q. So you therefore must have assumed that the nature of the engineering advice you would obtain was crucial?

10 A. Yes.

Q. And for the safety of those involved in using these buildings you would want to get the best and most complete advice possible?

A. And practical, practically speaking at the same time.

1628

15 Q. You've said that Mr Collins wanted the buildings to be safe?

A. Correct.

Q. And that cost was not discussed?

A. Correct.

20 Q. So in fulfilling your role as property manager, I mean Harcourts' role, of ensuring Mr Collins' wish that the building was safe was met, you entered a contract with Holmes to carry out initial inspections, correct?

A. Yes.

Q. And in relation to the PGC building that was only followed up when tenants initiated a concern?

25 A. The policy was generally after another – any major aftershock that we'd get the buildings re-inspected.

Q. But in the case of the PGC the inspections only took place when the tenants initiated the concern. Isn't that right?

30 A. The reason for that is that it was considered one of the least damaged buildings based on the professional advice we had from Holmes.

Q. The initial inspection referred to in the contract is plainly different to what I've called a full detailed inspection isn't it?

A. Correct.

Q. How much did these initial inspections that Holmes consulting did, cost?

- 5 A. I don't have the figures with me but generally they were based on rates contract, from engineers, and the rates were for senior engineers and junior engineers, they varied, they were generally on a rates basis because in most cases the engineers didn't know how long they would be spending in the buildings.
- Q. The accounts were sent to you?
- A. No, they were sent to the accounts department.
- Q. So –
- 10 A. Our accounts department, so when I said cost was not an issue, I ordered them knowing that the costs should be reasonable.
- Q. Right, so I'm just wondering how much they actually charged you for these (overtalking 16:30:19) ...
- A. Well I think that the senior engineers range from \$230 to \$250 an hour.
- Q. Was anyone else other than Holmes Consulting Limited approached to
- 15 carry out any assessments of the PGC building?
- A. No, not to my knowledge.
- Q. The reasons for peer reviews you mentioned earlier on was in the case of insurance companies being concerned about the financial implications of whether a building should be brought down or not?
- 20 A. Most of the peer reviews have been in that respect, but not all.
- Q. No peer reviews were motivated by implications of life safety, were they?
- A. Yes.
- Q. Which ones?
- 25 A. I had an initial building inspected after February which was initially given a green sticker - I had concerns about that building - I called an engineer from Auckland, relayed my concerns about the building to that engineer and that afternoon he inspected the building on a Saturday. He agreed with my concerns and the building was yellow stickered and it's since
- 30 been condemned and demolished.
- Q. Why no peer review on the PGC building just to be sure?
- A. Based on the Holmes Consulting Group reports there was no reason for concern.
- Q. But a peer review is by its nature a review by someone else?

A. Correct.

Q. You've mentioned earlier on in your responses to Mr Parker's questions that the PGC was a building that was particularly on your mind was it?

5 A. As I said before, the information arrived that the ceiling in the Marsh tenancy had fallen down and we wanted to get that fixed as soon as possible and it made us also want to inspect it to make sure that there wasn't further damage, structural damage.

Q. The ceiling tiles of \$28,000 to repair, covered by insurance?

A. Yes.

10 Q. Was there an insurance claim made in relation to the PGC building following the 4 September earthquake?

A. Yes.

Q. What became of that claim?

A. The claim in what respect?

15 Q. Was it – was the claim accepted or declined or otherwise?

A. Accepted.

Q. When?

20 A. I don't have that information to hand but we had – the claim was accepted for the – any earthquake works which were undertaken between the 4th of September and the 22nd of February were covered under our claim, and then the total loss was covered under a separate claim on the 22nd of February. I can't recall the date of that it was actually accepted.

25 Q. All right, well I would just like you to consider this – PGC building which we know was built in the 1960's, we also know that Holmes Consulting had identified in 1997 that wall shear cracking initiated at relatively low levels, that in 2007 Holmes expressed concerns about a severe seismic weakness, that Mr Collins apparently asked for safety to be confirmed and that tenants were clearly concerned so what do you say to the
30 suggestion that in doing no more than signing a contract with an engineer to do an initial earthquake inspection and then simply responding to tenants' concerns and not getting a full detailed assessment of the PGC building at all, Harcourts placed all of the tenants of PGC at the risk of injury or death?

A. I don't believe that's correct, and I'll further explain that we employed a professional engineer who whether they knew of the history of the building or not, would bring to our attention any concerns they had and recommend any further inspections as they thought necessary.

5 Q. You were asked by the counsel for Harcourts what lessons Harcourts has learned, and I think you offered one lesson, which was there should be coordination between the City Council, Civil Defence and owners in identifying buildings at risk. Is that your, Harcourts' lesson?

A. Yes.

10 Q. Nothing here that can be learned about what building managers like Harcourts can do better?

A. I'm happy that what we did was very proactive at the time and I'm very proud of what the team achieved in the short timeframe with the catastrophic event, in those circumstances I'm very happy with what our team did.

15

Q. Entering a written contract for a full detailed assessment would have put any dispute about what Holmes was required to do beyond doubt wouldn't it?

A. Yes, and we have to be wary that in terms of potentially earthquake-prone buildings there are, according to the Dominion Post and the Wellington City Council 600 earthquake-prone right now and they don't know the full status of those buildings and it's a massive task and one which is faced by all of New Zealand in getting on top of these earthquake-prone buildings. Both ourselves and CERA are now fully analysing any multi-storied buildings and some lower level buildings, so we are undertaking the full inspections now on those buildings to find out where they sit in terms of the earthquake codes, which are changing. That is a massive process in many cases, it takes eight or more weeks for an engineer to analyse the structure of the building, so that going back to the 4th of September, if you'd wanted every building that was damaged less than 1% to be inspected and analysed, you pretty much would have had to close Christchurch for six months, turn the lights off, come back, because it simply wasn't the engineering resource available to analyse those buildings and the – most of those

30

reports if they had been required would take anywhere from four to 10 weeks based on the information that's been given to me.

Q. So the reason you didn't require a full detailed report on the PGC was because you thought it would take too long?

5 A. No that's not correct, that's not what I said.

Q. Harcourts wasn't running Christchurch, Harcourts was dealing with a specified group of properties wasn't it?

A. Correct.

10 1638

Q. You knew since 2009 that the PGC was potentially earthquake-prone?

A. There are a number of, there are a huge number of buildings in Christchurch which were earthquake-prone and if the solicitor working under due diligence had a concern about the structure of the building we would have expected them to organise an engineer's report at that time.

15

Q. Do you know how many thousand aftershocks there were between September 4 and February 22nd?

A. Not exactly, no.

CROSS-EXAMINATION: MR HERON

20 Q. I just have one comment, if I may Mr Buchanan, an issue I will raise with you, you have referred to Mr Scott Thompson of Spotless and then you refer to your understanding that he spoke with his staff and got the statements that you then attached, am I right?

A. In talking with Scott about the enquiry I mentioned that the enquiry was very interested to hear first-hand accounts from people who were in the building or visited the building and when I mentioned that to Scott he actually offered the information. He said, "Oh, my staff and my contractors were in the building and they saw lots of the structure above ceilings that wouldn't normally be visible," and he said that he, those staff said that they didn't actually see anything. He actually offered that information to me.

30

Q. Could I just point out to you that each of those statements which you have attached, it is not a criticism of you at all, but they are each dated 31 October of this year, aren't they?

A. Mhm.

5 Q. And so they are recollections, it appears, going back some 13 months by these people and each one of them says no issues are noted or words to that effect and in fact Mr Thompson says, "No cracks in concrete columns or walls." Doesn't he? Now we know that is just patently not the case. We have heard plenty of evidence about cracks in
10 columns and walls and my point, and again it is not a criticism of you Mr Buchanan, is that perhaps a little more care might have been taken by Spotless in the preparation of the material that came into this Commission on that point. Do you think that is a fair point?

A. I accept there were cracks.

15 **CROSS-EXAMINATION: MR HANNAN**

Q. Now Mr Buchanan, if you will recall that there was some supplementary questions asked of you by Mr Parker and he asked you a question to the effect that in your dealings with Holmes did you have any appreciation that they were somehow limited in their task. Do you recall
20 that exchange between yourself –

A. Yes.

Q. – and Mr Parker? Now I want to suggest to you how the typical pattern of these inspections occurred which was that there was an initial inspection, that correct?

25 A. Yes.

Q. And that if Holmes then thought that there was a need for further investigation or some remedial requirement they would come back to you?

A. Correct.

30 Q. And they did do that for some buildings didn't they?

A. Absolutely.

Q. Yes. So if Holmes saw a problem with a building they would tell you and say this needs to be further investigated?

A. Correct.

Q. Now just on the same theme Mr Mills took you to the witness statement of Mr Hare, that is har.0001.7, and at paragraph 31, I am sorry, paragraph 32, Mr Hare says, “This level of inspection was generally considered appropriate for determining whether buildings were suitable for occupation subject to recommendations for further detailed assessment” and is that the process that you expected would unfold? That there would be where required details recommendations for further detailed assessment?

10 A. Yes.

Q. And indeed again, as I have previously asked you, that did happen with some buildings didn't it?

A. Absolutely. I've got examples of two of those with me.

Q. Mr Mills asked you whether as someone familiar with the building industry you know the damage in buildings can be hidden?

15 A. Yes.

Q. Now were you yourself personally familiar with the PGC building?

A. Other than looking at it from the outside on the first, on the 5th of September, no.

20 Q. Were you here earlier this afternoon when the Commission was looking at photographs of damage, cracks I should say, to the shear wall?

A. Yes.

Q. And were you able to see there that the apparent structure is a, or construction I should say, is plaster over a concrete base?

25 A. That is what it looked like. Yes.

Q. So if that were to be the case this would not be a building where there would be a need to remove wall linings in order to ascertain the level of damage to walls of that nature?

A. Yes, as I said that the visibility of the structure varies from building to building.

30 Q. Yes.

A. So engineers determined to us if a more invasive inspection was necessary on a building by building basis.

Q. Just one final point and I take you to document wit.man.0001.58. Now that is an email from yourself just at the top of the screen there to Ann-Cherie Manawatu-Tera, dated 14 October?

A. Yes.

5 Q. And if you go back down the email chain you will see that there is first of all an email from Ms Golding down at the bottom there, Thursday the 14th of October talking about a request for an engineer to come and check our building and then Louise Sutherland passes it on to Ann-Cherie and she asks you should we get 233 Cambridge checked by the
10 engineers again, and then you say, "Yes please order via Richard Serville at Holmes." Do you see that?

A. Yes, about nine minutes later.

Q. And was that the typical process for the ordering of these engineers inspections?

15 A. In most cases they, my staff did not seek approval.

Q. So they –

A. On some, on some cases they did.

Q. So it went direct from your staff to Holmes in most cases?

A. Yes.

20 **RE-EXAMINATION: MR PARKER**

Q. Do you recall, Mr Buchanan, you were asked to look at Mr Hare's brief by my learned friend Mr Hannan and by counsel assisting. At paragraph 31 this was read to you, "All inspections were carried out in compliance with level 2 post-earthquake inspection requirements." Was that part of
25 your contract, that terminology, with Holmes? See what I have just read out? First two lines?

A. Ah, no it's not, if you look at the contract actually.

Q. Right. Did you have a discussion with Holmes about that?

A. Um –

30 Q. When you engaged them – sorry that would be precise.

A. We just wanted the buildings to be inspected and initially inspected to discover whether they were safe to occupy and then whatever else was needed to determine if the building was safe to occupy going forward.

Q. Right.

A. So in fact, yeah level 2 doesn't show on the original contract I don't believe.

1648

5 Q. Can I just ask you this one further thing? In a preface to one of the questions put to you by my learned friend Mr Elliott, he alluded to the fact that the building had been built in the 1960s, that Holmes Consulting Group were involved in 1997 and had also been involved in 2007. Were you aware of that history as at the 4th of September?

10 A. No.

JUSTICE COOPER:

Q. Mr Buchanan, the reference to level 2 assessments, do you know what that means?

A. Well it was a steep learning curve after the 4th of September.

15 Q. Yes. But at the time that you instructed Holmes to carry out their work for you that wasn't an expression that was part of the contractual engagement?

A. No. No I mean, um, at that stage everyone was getting familiar with the whole, um, sticker -

20 Q. Yes.

A. – regime and, and then the, um, the engineering regime, um, followed.

COMMISSIONER FENWICK - NIL

COMMISSIONER CARTER - NIL

QUESTIONS ARISING - NIL

25 **WITNESS EXCUSED**

MR PARKER:

Sir I might (inaudible 16:49:27) a point made by senior counsel assisting, I certainly wasn't intending to not follow due process or what's down in the practice note. I may not be quite as familiar with it as I should but I think what

5 I put to my witness was simply matters that came up yesterday with Mr Collins. I was not required to cross-examine him because the nature of what I've drawn from my client today really isn't contrary to what was said there and that point was picked up by Your Honour. The other thing that might be of assistance to the Commissioners is that a letter came from

10 counsel assisting dated last Thursday after the briefs had gone in which I regarded as a singular courtesy because it raised matters which were going to be put to my witnesses and I thought that was extremely helpful and I think appropriate that I address some of those when leading the evidence of my witness. I'm sorry if I went off the rails by following that process.

15 **JUSTICE COOPER:**

I don't think we're off the rails Mr Parker but thank you for those observations.

COUNSEL ADDRESS THE COMMISSION – ORDER OF WITNESSES

MR PARKER CALLS**LOUISE ELIZABETH SUTHERLAND (SWORN)**

Q. Is your full name Louse Elizabeth Sutherland?

A. It is.

5 Q. You're a resident at Christchurch and your occupation is as commercial property manager of Grenadier Real Estate Limited which trades as NAI Harcourts, is that right?

A. That's correct.

10 Q. And is it correct Ms Sutherland that for the purpose of this hearing you've prepared a brief of evidence which you have before you?

A. Yes I have.

Q. Would you kindly read from that to the Commission please starting at paragraph 1?

A. Paragraph 1?

15 Q. Yes please.

A. "I worked for the Jones's Real Estate Limited from 2005 to 2006 as an assistant to the sales people whilst I studied for my real estate licence. I worked at Premier Real Estate from 2006 to 2007 as a residential real estate salesperson. I was employed by Harcourts in February 2008 as an administrator for the commercial and business broker division. In
20 May 2009 I accepted the position of commercial property manager for Harcourts Commercial. I was the person in the company dealing with the PGC building prior to Ann-Cherie Manawatu-Pearcy becoming the primary building manager in November 2009. Harcourts became the property manager on 15th September 2009 when our client
25 Cambridge 233 Limited purchased it from Pyne Gould Corporation Limited. As I had already established relationships with tenants I was often copied in or sent day-to-day maintenance requests from tenants even when Ann-Cherie took over the management. I understand that
30 Ann-Cherie Manawatu-Pearcy is providing a brief of evidence attaching all the relevant emails and will respond to paragraphs 4B and C below. My understanding is that I'm required by the Canterbury Earthquake's Royal Commission to comment upon information within my knowledge in respect to (a) any work or maintenance that was carried out on the

building before September 2010 and (b) instructions given to engineers to carry out building inspections and the advice engineers provided and (c) communications with tenants and engineers about building assessments between the 4th of September 2010 and 22 February 2011. In response to paragraph 4A I attach and mark as A a copy of the maintenance logs. To the best of my knowledge this is all the maintenance that was done on the property from September 2009 until 22 February 2011. I can confirm that during the time I was Harcourts' representative in respect of the building prior to Ann-Cherie Manawatu-Pearcy becoming the primary building manager that there were no engineering or earthquake related issues that I was aware of. Any other maintenance that I was involved in was just the usual day-to-day maintenance of such a large building."

CROSS-EXAMINATION: MR MILLS

15 Q. Well as I said to His Honour I expect that as a result of Mr Buchanan's evidence that the questions that he was asked most of the things that were going to be asked of you have largely been dealt with but just let me check with you. You were here while he was giving his evidence?

A. I was.

20 Q. To the extent that those issues apply also to you does, do you disagree at all with what was said about your understanding of what Holmes was doing?

A. No I do not disagree.

25 Q. And you were involved as well and we can go through the email chain if we need to but I don't think we do?

A. Mhm.

Q. You were involved as well in giving assurances to tenants that the building had been checked and was safe to occupy?

30 A. I did, I relayed information provided to us by the engineers and would relay that on to the tenants, yes.

1658

Q. And you knew, didn't you, from a number of those emails that you were getting what was fairly apparent from the emails as anxious tenants seeking re-assurance?

A. Yes.

5 Q. And as far as you were concerned you were giving them that re-assurance?

A. I was and any assurances I was giving them was based on the information we'd received from Holmes.

10 Q. Did you, before you gave each of these re-assurances, had you seen the reports that had come in from the Holmes engineers who were doing these assessments?

A. I had.

Q. And did you understand, as Mr Buchanan said he did, the nature of the assessments that Holmes was actually doing?

15 A. I understood that it was a level 2 assessment, yes.

Q. And did that term, 'level 2 assessment' does that encompass the paragraph that I drew attention to from Mr Hare's evidence about what he said the Holmes engineers were doing. Is it the same thing?

A. Yes.

20 Q. And did you ever have cause to wonder whether the statement to the tenants and staff of the various tenants that the building was safe to occupy or safe to occupy structurally or that there was an assurance that it was safe that that was perhaps too strong given the nature of the assessments that were being done?

25 A. No. The people referring to those reports contained the words "structurally" and "safe to occupy" and for me and for all of us those are the words required, yes. We have to, as Howard has said, we are not engineers and we have never claimed to be and can only relay the information that the engineers have given us.

30 Q. So you never had any doubts about the wisdom of passing along that the building was safe to occupy structurally?

A. Not at all, no.

CROSS-EXAMINATION: MR ELLIOTT – NIL

CROSS-EXAMINATION: MR HERON

Q. One question Ms Sutherland. Can you confirm that PGC, including people from its subsidiaries – MARAC and Perpetual – they were pretty active in letting you know if there was an issue, letting you know if there were risks or hazards that they saw?

5

A. Is this in relation to earthquake only or maintenance within the building?

Q. Well perhaps deal with maintenance generally?

A. Yeah they were very, um, good at communicating any issues within the building.

10 Q. And the earthquake issues they had?

A. Yeah, yes.

CROSS-EXAMINATION: MR HANNAN

Q. Yes very briefly Ms Sutherland I'll take you to the witness statement or brief of evidence of James West from Pyne Gould Corporation. This is WIT.WES.0001.1 going to .6, paragraph 29 and this is Mr West saying that on 30 September he emailed you about a newly discovered crack which he was asking to be looked into, just pause there. We will get this on screen and you can see it.

15

20 JUSTICE COOPER:

We have got a malfunction have we?

MR HANNAN:

If I may, Sir, there's an email which does the same work, if I may, that's JW12 in the bundle. This is the email from Ms Sutherland to Mr West, 30 September. That's WIT.MAM.0001.28.

25

CROSS-EXAMINATION CONTINUES: MR HANNAH

Q. This is your email to Mr West, 30 September?

30

A. Yes.

- Q. And you tell him at paragraph 2 that “We will be appointing a project manager to inspect the building with the insurer. This project manager will be overseeing all repairs.”
- A. Yes.
- 5 Q. That’s right?
- A. That’s correct.
- Q. And then just at the second to last paragraph you say, “It’s worth bearing in mind as long as aftershocks are occurring new damage will be appearing. Therefore there is little point in rushing into repair works
- 10 until they have stopped, yes.
- A. Yes. If I could retype that email now I would insert the word, “cosmetic” before the word “repair”. It is still the case with insurers even now in Canterbury, um, they will not undertake cosmetic repairs until the aftershocks have died down.
- 15 Q. Yes and that’s understandable and I guess what I’m really saying is that what you envisaged would happen –
- A. Absolutely.
- Q. – with this building is exactly that, that there would be a further detailed investigation –
- 20 A. Absolutely.
- Q. – of what repairs were required and a consultant would be appointed or a project manager would be appointed to do that –
- A. Absolutely.
- Q. – at the appropriate time.
- 25 A. And as we’ve previously shown any emergency reports, any emergency repairs that were required to make the building safe and able to be occupied we would undertake immediately.

RE-EXAMINATION: MR PARKER – NIL

QUESTIONS FROM THE COMMISSION – NIL

WITNESS EXCUSED

COMMISSION ADJOURNS: 5.07 PM