

**COMMISSION RESUMES ON MONDAY 2 JULY 2012 AT 10.05 AM**

**JUSTICE COOPER:**

Yes, I just note Mr Matthews is here. You're acting for Mr Hunter?

5

**MR MATTHEWS:**

Madras Equity Sir and Mr Hunter.

**JUSTICE COOPER:**

And Mr Hunter as well.

10

**MR MATTHEWS:**

And Mr Hunter. Yes.

**JUSTICE COOPER:**

Yes Ms Brown.

15

**MS BROWN:**

Good morning sir, I appear for Mr David Coatsworth and I'll be joined on Wednesday by Mr Western.

**JUSTICE COOPER:**

20 Thank you. Yes Mr Zarifeh.

**MR ZARIFEH:**

25 Sir, we continue this morning and tomorrow and Wednesday with the post-earthquake assessment evidence and that's going to begin with the first witness this morning who was the building manager between September and the February earthquakes, Mr John Drew, and I'll call him now Sir.

**JUSTICE COOPER:**

Yes, thank you.

**MR ZARIFEH CALLS****JOHN MAXWELL DREW (AFFIRMED)**

Q. Is your full name John Maxwell Drew?

A. Yes.

5 Q. You are a director of, is it EGT Holdings Limited?

A. That's correct.

Q. You're married, your wife Victoria who's a registered medical practitioner and you've got children aged 21, 19, 18, 15 and 5 years and your family resides at Little River. Now you have got a brief of evidence that you have prepared and signed dated 16 September 2011 in front of you?

10

A. Yes I do.

Q. Can I ask you please to read that to the Commission and where you refer to a document we'll get it brought up on the screen in front of you, in front of us and refer to it and then carry on reading it so we'll just take it at that.

15

A. (inaudible 10:09:09) start from number 3.

Q. It starts from paragraph 2 please.

**WITNESS READS BRIEF OF EVIDENCE**

20 A. I am a company director of New Regent Medical Centre. I was introduced to the CTV building in February 2010 through Andrew Bevan who is a Christchurch developer. I understand that a 4/9<sup>th</sup> interest in the property was available for purchase from Mr Lionel Hunter. I understood that Mr Hunter was in partnership with Cliff and Jean and Kerry and Fay Eglings ("the Eglings") who own the remaining 5/9<sup>th</sup> share. Mr Hunter and the Eglings were proposing that when Mr Hunter had sold his interest in the property a new legal entity would be established that would hold the property on behalf of the Eglings and the new owner.

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30 1010

The reason I was interested in the CTV building was because I had resolved to relocate my medical centre which was then based at 192 Gloucester Street. I intended to become the lead tenant for the

CTV building and then to convert the entire building into a medical services centre providing comprehensive medical services through independent tenancies. I had no previous evidence in the field of property development –

5 Q. Previous experience? You said “evidence, I had no previous evidence”.

A. Experience, sorry, in the field of property development whatsoever and at all times I was heavily dependent on Andrew Bevan’s knowledge of that sector. I was looking at various options together with Mr Bevan as well as looking at the CTV building. We also looked at a property in  
10 Cashel Street that had previously owned by Silverfern PPCS. This building was located opposite the old Farmers’ building. When we discussed the benefits of that building it was noted that there were earthquake issues because in Mr Bevan’s view the building was not up to code. He was concerned that the cost of bringing the building up to  
15 code he was generally concerned about problems that might arise with that building and was relying upon an engineer’s report on the PPCS building that had identified a particular issue of concern with that building. Mr Bevan and I agreed that we would focus on properties that had been built later in time and were therefore compliant with current  
20 building code. I was made aware that the CTV building was built after the new code came into effect and was an improved design on the PPCS building. As it was explained to me by Mr Bevan changes had been made to the building code in the late 1960s prior to the construction of the CTV building. As I have said I was entirely reliant on  
25 Mr Bevan in relation to these types of matters with which I had no previous experience. When Mr Bevan and I looked at the CTV building we were aware that there had been a number of upgrades to the building’s fit-out. I understood those upgrades had been submitted to the Christchurch City Council by Leading Edge, a company of  
30 architectural draftsmen based in Queenstown. I understood building consents had been issued for each of those upgrades. As far as I was aware the building was code compliant and entirely satisfactory. We looked at the building’s LIM which was again satisfactory. Together we

went to the CCC offices to, in Tuam Street, where Mr Bevan sought out the building's report. The files relevant to the building were in two boxes. I remember we saw floor layout plans but I can't remember seeing any engineering plans and I didn't see any plans with construction details.

5 My concern was more with the physical layout of the building, its dimensions and partition plans. It was about July 2010 that I obtained copies of the floor plans from CCC detailing the layout however once again those did not include structural reports. Negotiations with Mr Hunter's solicitor continued through until about April or May 2010  
10 when I entered into an agreement to purchase his 4/9<sup>th</sup> share. That was to be completed by way of sale of shares in a new company that would be formed to own the CTV building. Prior to this I had parted company with Mr Bevan. We had each made independent offers for Mr Hunter's shares in the CTV building. My offer was successful and that, from that  
15 point onwards I operated independently of Mr Bevan. My offer to purchase Mr Hunter's interests was unconditional but it was however subject to Mr Hunter obtaining a release of a caveat that had been lodged against the title and that claimed an interest in the property and proceeds of the sale. The agreement provided that I was required to  
20 settle with Mr Hunter five days after he was able to provide clear title. It was certainly anticipated this would be within a matter of weeks as opposed to months.

Q. Can I just ask you about that unconditional offer? Before you put that offer in did you obtain any inspection by an engineer or anything of that  
25 nature?

A. No, we were relying on, I understood we were relying on the inspection of the council records saying that there was, I attended one meeting when we were getting the files and I distinctly remember this council guy saying, "There's nothing outstanding on this building." The inference  
30 was it was all compliant.

Q. All right. Had you ever purchased commercial buildings of this nature before?

A. No. I, well I had an ownership of 400 St Asaph Street but it was a single storey commercial building.

Q. Thank you, back to 13 please?

5 A. The CTV building had previously been managed by the Eglings' accountant, Russell Ibbotson on behalf of both Mr Hunter and the Eglings. Mr Ibbotson subsequently resigned from the position of manager in about May 2010 and there was therefore a vacuum in terms of management of the building. During the purchase discussions I had with Mr Hunter I agreed to enter into a management agreement after the  
10 purchase had been completed that would involve me overseeing the changes to the tenancies and handle day-to-day concerns of tenants. A management agreement was prepared in draft but it was never signed because settlement of the purchase never took place. I was happy to undertake that role because of my intention to oversee the  
15 establishment of the medical centre and the new tenancies. As it happened I took on the management role before settlement in the belief settlement would be completed very shortly. Throughout this period I had a number of dealings with Simon Waring who was the accountant for the company Madras Equities Limited which was the company with  
20 which held Mr Hunter's and the Eglings' interests in the property. Once I had entered into the agreement to purchase I oversaw the cleaning of the building, the upgrading of the garden and the redecoration of the foyer and lifts. None of this involved any structural work. In effect I became the caretaker of the building dealing with any day-to-day needs  
25 that arose. I would have telephone conversations with tenants regarding matters such as the car park and the entrance foyer and decisions on their tenancies. It was agreed with Mr Waring that I would be paid \$1000 per month for my management role and the first invoice I issued for my fees was May 2010. None of these matters were recorded in writing. All  
30 agreements were verbal and the only relevant documents were my invoices. I understood that Mr Waring was checking with Mr Hunter and the Eglings to ensure their agreement to such matters. My invoices were paid on a Madras Equities account. At this stage I was not in the

building on a day-to-day basis because I was still running the medical centre over in Gloucester Street. Following the 4<sup>th</sup> September earthquake I had a call from Mr Murray Wood of CTV to advise the building had been green stickered and he was in the process of getting CTV back up and running.

5

Q. Can I just ask you there, when did Mr Wood call you? Can you recall?

A. Not exactly, I think, my best guess would be about 11 o'clock that morning.

Q. So on the Saturday the 4<sup>th</sup>?

10

A. Yeah, yeah.

Q. You said that in that call he said you'd been, the building had been green stickered?

A. Yep.

Q. I think the evidence is that the green sticker wasn't put on till the 5<sup>th</sup>?

15

A. Well it must have been the 5<sup>th</sup> then.

Q. So that'd be the Sunday?

A. It must've been the Sunday.

1020

Q. But it was within that bracket of a day or two of the earthquake, is that –

20

A. Yeah, I had myself hadn't even gone in there and it did seem remarkably quick. I guess we were all still recovering from the shock.

Q. Now when he called you and said, "We have been green stickered." Did he give you any details of what had happened, what kind of inspection or anything like that?

25

A. No, no.

Q. At that time were you aware of the inspections that were being conducted by the Council, so in the days and weeks that followed the 4 September earthquake, were you aware firstly that the Council was going around inspecting in the days after the earthquake?

30

A. Yes.

Q. And were you aware of the process, or details of the process?

A. No.

Q. Were you aware of level 1 and level 2 assessments for example?

A. No.

Q. What about the placard system, there was green placards, yellow placards and red placards had been put on various buildings, were you aware of that?

5 A. The stickers?

Q. Yes?

A. Yes.

Q. And what was your understanding at the time as to what a green sticker or placard meant?

10 A. Safe to occupy.

Q. Did you know anything further than that in terms of the various placards?

A. No.

Q. Carry on please to paragraph 20?

15 A. After the earthquake most of my dealings with the tenants were verbal. The only written communication to the best of my knowledge was an email to tenants, Mr Guy Domett (of "Going Places" – second floor) and Graeme Dodd (of "Kings Education") dated 8 September which read in part: Building has had engineer inspections. I have been green  
20 stickered. We have been cleared to occupy the building. The damage is limited to glass and plaster damage. The structural integrity of the building to date has been deemed to be okay. If this should change you will be informed.

Q. Just pause there and I will get you to look on the screen at the email. Is  
25 that the email to which you refer?

A. Looks to be, yeah.

Q. It is slightly differently worded than what you read out?

A. Mhm.

Q. You will see it says, "The building has had several engineer inspections  
30 over the last three days. We've been cleared to occupy the building (green sticker), what damage there is, is limited to minor glass and plaster damage. The structural integrity of building to date has been

deemed to be okay. If this should change, you will be informed.”

Correct?

A. Correct, yeah I think it is relating to the same...

Q. But that is the email that you sent?

5 A. Yep.

Q. Just carry on 21 please?

A. The reference to “engineer inspections” above refers to inspections that I understood had been carried out by the Council engineers leading to the issuing of a green sticker for the building. I was not present for any of those inspections and do not know the names of the engineers involved.

10

Q. Just get you to pause there. Just ask you some more questions about this email and your knowledge. Firstly, where did the information that you conveyed in that email, where did it come from, how did you get that?

15

A. It would be in discussions with Murray Wood who was basically the, had occupied the role in lead of the building's affairs and as I was still coming up to speed with what is going on, most people referred to and Murray knew pretty well whatever was going on in the building and people referred to him as such so would have been in discussions with Murray.

20

Q. And Murray Wood, was he the manager of the CTV at that time?

A. Correct.

Q. How often did you deal with him, how frequently at that time?

25

A. It was needs based but probably two or three times a week we would have either a coffee or a casual chat.

Q. And your reference to, “The building has had several engineer inspections over the last three days.” You say that came, would have come from Murray Wood?

30

A. I suspect that is where it came from because I didn't have any direct knowledge, I wasn't at that point present at the building a lot.

Q. Do you know who the – or where the engineers were from that had done those inspections?

- A. No I don't.
- Q. Did you know if it was a reference to Council inspections?
- A. That's what it indicates at this point, yeah.
- Q. I am just asking from your memory can you recall being told whether  
5 they were Council –
- A. No.
- Q. And in terms of the information about the damage being limited to minor glass and plaster damage, where did that come from?
- A. Well it was pretty self-evident there was a cracking of plaster and I think  
10 we had lost about 10 or so windows.
- Q. Right so that's things you had seen for yourself as well?
- A. Yeah.
- Q. And the sentence, "The structural integrity of building to date has been deemed to be okay." Where did you get that from?
- 15 A. I suspect until David Coatsworth had a look at it, I was relying entirely on the green sticker.
- Q. Right, what I am asking is, when you say, "The structural integrity of the building is deemed okay," "...to date it has been deemed okay." How did you conclude that, on what basis?
- 20 A. The green sticker.
- Q. And as you said before, was safe to occupy, understanding of that, is that correct?
- A. Correct.
- Q. So were you, other than what you were told by Murray Wood, were you  
25 not aware of what Council inspections had taken place in the three or four days following the September earthquake?
- A. No.
- Q. Were you present for any of them?
- A. No.
- 30 Q. And it follows that you weren't aware then whether there had been level 1 or level 2 assessments?
- A. That is correct.

Q. We've had evidence last week from three of the Council building inspectors that went to the building on 7<sup>th</sup> of September so that would be the day before that email you sent to Mr Domett and Mr Dodd and Mr Flewellen one of those building inspectors referred to the three of them going to the building, speaking to the receptionist of CTV, a woman, and then to someone that they, or he understood was the building manager and I will just read you some portions of his evidence, I don't think it needs to be brought up on the screen. The receptionist, this is paragraph 14, "The receptionist told us that the building manager was in the building but she was not sure exactly where he was at the time and that she would go and find him for us. The three of us walked through the ground floor of the CTV building and met the man that we understood was the building manager at the stairwell area. The manager told us that the building had been green stickered for the exterior only and that the reason why we were there to complete a further assessment was to undertake an assessment of the interior of the building. I got the impression that it was he who had requested that this assessment be undertaken by us. That person did seem to be knowledgeable about the building and why we were there." And at paragraph 19, "I was not able to get into each tenancy on all floors even after the manager came to meet me because he did not seem to have keys to all of the tenancies. However I did enter at least one tenancy on one of the upper floors with the manager having let me in and recall only seeing minor cosmetic plasterboard vertical cracks as damage." Then 21, "The building manager pointed to some minor vertical cracks in plasterboard but he never mentioned having observed any structural damage. He told us that none of the occupants had raised any concerns about the safety of the building." Now, firstly from what you have said that reference to the building manager –

30 A. Yeah.

Q. Was that you?

A. I have no recollection of that, I can only assume it would be Murray.

1030

Q. Okay. The building inspectors were not or could not recall the name of the person they were introduced to but you weren't present when three Council building inspectors inspected the building and in effect were shown round part of the building by yourself?

5 A. Um, in all honesty I can't remember it. That's not to say it didn't happen. There was a lot going on, um, but I couldn't remember that event.

**JUSTICE COOPER:**

10 Q. Was there any basis that you can recall on which Mr Wood might have had keys to tenancies other than those of the CTV?

A. Ah, to explain, Murray was basically the building manager and had been. Ah, Mr Ibbotson was, ah, very rarely there so during the time Murray had occupied he had assumed the role effectively of chief honcho for the building so he had all the keys and I actually left them  
15 with him because they were readily accessible and he had great knowledge of the building intimately in terms of various repairs and problems that had occurred so he was very much the wellhead of knowledge for the building and the tenancies and the gossip.

Q. And the what?

20 A. Gossip, the chatter.

Q. I just wanted to hear what you said. Thank you.

**EXAMINATION CONTINUES: MR ZARIFEH**

Q. So just so we can be clear, you don't remember being present for that inspection on the 7<sup>th</sup> of –

25 A. No I don't.

Q. – September. That might have been you?

A. It could have been me, yeah.

Q. All right, the next day, the 8<sup>th</sup>, you're sending that email because this inspection's on the 7<sup>th</sup>. So the next day you're sending that email –

30 A. It does link doesn't it.

Q. Well it links but what you're saying, you've said before you got the information in that email you thought from essentially from Murray Wood?

A. Mhm.

5 Q. Do you recall ringing the Council this is a couple of days or so after the September earthquake, do you recall ringing the Council and asking for an inspection of the interior as I read out to you about that reference to the building manager?

A. No I don't.

10 Q. Right. All right, did you make an inspection of the building yourself after the 4<sup>th</sup> of September?

A. Ah, yes Murray and I walked through it, um, yeah.

Q. Did you take any photos yourself?

A. Um, not that I recall, no. I could well have but, um.

15 Q. Have you still got those or not?

A. No, unfortunately my office was completely destroyed when the building went down and that's where all of that sort of nonsense was. Um, I had other records on a laptop which was subsequently stolen so...

20 Q. All right, so in the email the reference to the structural integrity of the building being deemed to be okay that's reliant, as you say, on the fact it was green stickered and either you found that out through Murray Wood or possibly you were present when it was green stickered on that day but you tend to think not. Is that correct?

A. That's correct.

25 Q. If I can get you to carry on please, 22.

**WITNESS CONTINUES READING BRIEF AT PARAGRAPH 22**

30 A. "The email was representative of the general discussions I had with the tenants following the 4<sup>th</sup> September earthquake. Obviously I placed significant reliance on the fact that the building had been green stickered. I was aware that the building had suffered some damage that I understood to be non-structural and repairable and I was highly motivated to have those repairs carried out quickly. I was conscious that it was my intention to buy the property and that I wanted it to be

5 fully tenanted. To help achieve that, I was keen to get the repairs carried out promptly. I was keen to get an independent engineer's report to identify what remedial work was required. Mr Waring initially dealt with the building insurers, Vero Insurance, and, to the best of my recollection, I was given authority from either him or the owners to engage an engineer. I approached CPG New Zealand Limited."

**EXAMINATION CONTINUES: MR ZARIFEH**

- 10 Q. I will just get you to pause there. Firstly I'll get a document brought up which is WIT.DREW.0001RED12. That's dated the 14<sup>th</sup> of September from you to Simon Waring, correct?
- A. Correct.
- Q. And "tenants requesting information on repairs being done" as the topic, correct?
- A. Mhm, mhm.
- 15 Q. You say at the last sentence, "Will order steel work today fire escape." Can you just tell us what that was referring to in terms of...?
- A. Ah, we'd identified the lower flight of stairs didn't have a handrail or it was coming loose so the repair was to the lower flight of stairs handrail.
- Q. Was that earthquake related or not?
- 20 A. No, no. It was repairs.
- Q. Okay but the repairs that you're referring to in the first sentence, was that earthquake repairs?
- A. Ah, yes.
- Q. Now just on this topic of the inspection by CPG that subsequently followed, I just want to ask you to explore the reasons that you sought an inspection by a structural engineer. Why did you get that done?
- 25 A. Um, it became more generally known that the Council inspections only went so far and it was the responsibility of owners to get a more detailed inspection, um, so that was the motivation.
- 30 Q. Okay, and when you say "it became more generally known" because then it became known to yourself?

A. Yeah, I was just picking up from articles in newspapers and discussions with the likes of other business people and Murray.

Q. Right, did you ever look at the green placard or sticker on the building?

A. I don't believe I did, no.

5 Q. And were you aware that the placard, the green placards recommended owners get an engineer's inspection?

A. No, well I became aware of that.

Q. Just from the media?

A. Mmm.

10 Q. And what was it that you wanted then an engineer's inspection to be able to tell you about the building?

A. Well primarily whether it was safe, ah, to occupy and then secondary what, ah, repairs or inspections we should conduct beyond that.

15 Q. All right. Well I'll just get a document brought up which is 0001RED13. This is an email from Mr Coatsworth to you. Do you recall that?

A. Ah, yep.

Q. Right, now the first paragraph it says at the last sentence, "I understand that the building owners are interested in having an independent structural assessment carried out", correct?

20 A. Correct.

Q. Does that accord with your recollection of what had been asked for by you and what you were going to get?

A. Yeah.

25 Q. All right, now it doesn't refer there to this term "safe to occupy" or whether the building was safe or anything like that. Do you recall any discussion along those lines. I know you were thinking that's what you would find out but I'm interested in whether it was actually discussed?

A. Oh, I find that, I, I don't know.

1040

30 Q. Okay.

A. But the assumption was always that, I mean, what the hell's the use of having a structural report if it's not to determine whether it's safe.

- Q. I understand your assumption was that. I was just interested in whether you'd actually recall, you recalled actually saying that. I'm not suggesting that you did but –
- 5 A. I would find incredulous if that wasn't part of the conversation if not in, you know documented form.
- Q. All right. But you can't recall specifically?
- A. No.
- Q. All right. And when it says independent what did you understand by that?
- 10 A. That he was, a prof- part of an independent professional body, could give independent advice.
- Q. You'll see in the third paragraph there's a reference to how the building's made up, five stories high, reinforced concrete, concrete beam and column construction, double lift shaft, suspended concrete
- 15 which cantilever out the floors, see that?
- A. Mhm.
- Q. Do you know where that information came from? Did you give it to –
- A. No.
- Q. Mr Coatsworth?
- 20 A. No, he's written that from his own knowledge.
- Q. Okay. And then if you go down to the fifth paragraph, two down from there, Mr Coatsworth, I won't read it out but he sets out what he proposes to do?
- A. Mhm.
- 25 Q. You see that?
- A. Yep.
- Q. Do you recall when you read that what you thought as to the depth or level of inspection how, how far it appeared that it was going to be?
- A. No I assumed he would inspect, I put no limit on his inspection. He
- 30 spent in the end a whole day basically on it. I have no understanding what an engineer requires to inspect. I assume he'd take whatever steps appropriate to complete his work.

Q. All right and if you look at the last or second to last sentence, the paragraph sorry, the same paragraph, it says, "Structural and Architectural drawings of the building would be very helpful. If these can be made available, they will help with the understanding of the structural systems within the building". See that?

5

A. Mhm. Yeah.

Q. Now that's a reference in his email to you. Was there any discussion between you and Mr Coatsworth about structural drawings?

A. Ah, yes there was. I had drawings up in the office but they were all relating to floor plan layouts et cetera. And so he said, "They're no use, they be of no use to me", and I said, "Well I had another request in the Council for the building files again for floor plans", and he said, "Well can you grab or I need to look at structural", and so I said, "Oh well I'll, when I'm in there I'll see if I can get what you need." Thinking –

10

15 Q. When was this conversation in relation to that letter, say.

A. It would be before his report I'd say.

Q. Well this email is –

A. This is his initial appointment email.

Q. This email is dated the 24<sup>th</sup> of September right?

20

A. Mhm.

Q. And it's referring to discussions with you, or discussion with yourself presumably sometime before that, the first paragraph, "Thank you for your time given in discussion with myself", see that in the first line?

#### **WITNESS REFERRED TO LETTER**

25 A. Can, where am I looking sorry?

Q. First line of the letter.

A. Oh yeah. That would be a telephone conversation.

Q. Okay. And presumably in which you requested an assessment?

A. Correct.

30

Q. And his email was referring to that and obviously setting out what he proposed for it in terms of the inspection?

A. Mhm.

Q. And in that fifth paragraph as we've just referred he mentions structural and architectural drawings, correct?

A. Mhm.

Q. So is that the first time he mentioned it?

5 A. That would have been yeah.

Q. All right, so that's 24 September. The inspection we're going to come to in a moment was on the 29<sup>th</sup> so five days later right?

A. Mhm.

10 Q. I'm just trying to get a fix if you like on the sequence, so when was the discussion about the drawings?

A. While we, we spent the whole day going through the building and I accompanied him with that and so the discussions I remember him saying at one point, "You know I don't have x-ray vision" and at some point one, we've got to get the structural drawings and also he made  
15 mention that it may require physically going into some of the cracks in the stairwell as well just to make, he didn't think there was any as his report later turned out he said he didn't think there was any structural integrity issues but until he could get right in there you know he didn't have x-ray vision.

20 Q. So just to be clear that's something he said to you during the inspection?

A. Yeah.

Q. Okay and in terms of getting right in just so we're clear can you just tell us exactly what you recall was said by Mr Coatsworth?

25 A. Um, just as I've said, the, it could, I think the context went along the way that when he sees the structural drawings or has more knowledge of the detail of what's in the wall he may require or may, might be appropriate that they do a full more physical inspection of drilling in to make sure that the, what he suspects has happened, is – what he suspects they'll  
30 find they do find.

Q. Okay and when you say drilling in what was said about that?

A. Basically that it's in, he seemed to think that the, the repair guys and engineers would have more of a say in that than, than he would, in a

concrete injection repair system they may decide to take, take more drastic means if they, if they, I believe they open it up a little bit more anyway.

Q. Okay in the repair process?

5 A. In the repair process.

Q. Okay. All right so this is when you're going around, he says about the x-ray vision, not having x-ray vision. What was said if anything about the structural drawings though?

10 A. That he'd, he made mention he, he needs them to, he had a pretty good idea of how it was constructed, but I think it was, well you'd have to ask him really, the –

Q. I'm interested in what he said, not what he thought?

A. Yeah, that he, he, following up on this thing he'd like to see structural drawings, mhm.

15 Q. And you said before that you had a request in to see with the Council to see the building file?

A. Yes.

Q. When did you put that request in was it before or after the 4 September earthquake?

20 A. I've got no idea.

Q. Right, well why did you put that request in?

A. I was looking, we had two, or perhaps one and a half floors vacant, um, my major focus in this phase was to, ah, get tenants so I was preparing files on each floor so I could present to prospective tenants and explaining what was available and what could be done.

25 Q. Right. And that was occurring before September?

A. Mhm.

1050

30 Q. September earthquake. Okay. All right well just tell us then what transpired as far as you're concerned about these drawings. He had said it in his email, you said he mentioned it during the inspection?

A. Mhm, that I have nothing currently and I said, I have got a request for after September the Council couldn't access or was delayed on access

for anything and I said, "I have been told it could be up to an eight week delay before anything is able to come out of the Council." So I think I mentioned to David that I had this request then so I am assuming I will be first cab off the rank to have access to the file and perhaps I can help out getting the structural stuff out then.

5

Q. And what was his reaction to that?

A. Something like, "See how you go."

Q. Was there any further discussion between you and Mr Coatsworth about the drawings?

10 

A. Not that I can remember.

Q. And the Council records show that the file was made available for you to inspect on the 21<sup>st</sup> of October 2010. Does that sound right to you?

A. If that is what their records show, yeah.

Q. Do you recall going in and looking at the Council file?

15 

A. Yeah I do.

Q. And did you see any structural drawings or what might have been structural drawings on the file?

A. Yeah and that is when I realised that I had – there is no way I could pick and choose. They are very, there is some very detailed drawings, there was some large format ones. I really had no idea what David might want or need and the file was in a pickle, some of the information was from the original build. So I realised it's, it was a complete, it was beyond me to figure out what might be important or relevant to him.

20

Q. So what if anything did you do in relation to those drawings that you had seen?

25

A. Well I didn't do anything at the Council. I took what I needed for tenants and I think it was around that time his report came out and I thought maybe he didn't need them after all or he had got them independently to produce the report.

30 

Q. Just so we have got the dates, the report is dated 6 October?

A. Mhm.

Q. Mr Coatsworth's and I think he sends it to you on the 8<sup>th</sup> of October?

A. Mhm.

- Q. And just looking at the Council record I think I am right in saying that the files requested from the Council on the 12<sup>th</sup> of October so that looks like after you would have got the –
- A. Report.
- 5 Q. – Mr Coatsworth report and as we said viewed by you on the 21<sup>st</sup> of October, so looks like you are requesting your viewing of the Council file would have been after you had received the Coatsworth report?
- A. Well that makes sense, yeah.
- 10 Q. So did you not think when you saw it I should ring and tell him that they are here or available?
- A. Oh, well he knew they were there and...
- Q. Well how do you know that, when you say, "He knew."?
- A. Well that's the repository of all building Council related stuff, isn't it, so, I
- 15 mean he said as much in to me that while we were inspecting the building.
- Q. Well I will just read you out firstly something that is said in the report which is WIT.DREW.0001.RED.20. If you look at the paragraph under, "Building construction details." You will see it reads, "We have not
- 20 sighted," see the top paragraph there, "We have not sighted any structural drawings for the building. I understand that the building manager was unable to obtain drawings and Council records are currently unavailable following the earthquake damage to their archive system." Okay?
- 25 A. Mmm.
- Q. The reference to – so this is his report of 6 October, right?
- A. Mmm.
- Q. So he's saying that he understood that you have been unable to obtain them?
- 30 A. Yeah the situation was exactly that, the Council couldn't tell anyone when they'd have the records available.
- Q. Then I just want to refer you to evidence that Mr Coatsworth is going to give on Wednesday and his brief of evidence and I will read you out

what he says in paragraph 21. In the proposal and that's just to interpolate that, that's the reference, that email we just looked at where he was setting out what he proposed?

A. Mmm.

5 Q. I think that is what he is referring to as the proposal, "In the proposal I asked Mr Drew whether any structural or architectural drawings of the CTV building were available. Mr Drew told me I think during the second telephone conversation we had that he did not have copies of the drawings. I then telephoned the Christchurch City Council to obtain  
10 drawings from them but they told me that their records were in disarray following the September earthquake and they did not know when drawings would become available." So does that accord with what – I know you didn't, you don't know when he phoned them but does that accord with your recollection of the situation?

15 A. Yeah, yeah, the Council – something their record repository was affected by the earthquake. They couldn't access it or something.

Q. And he says in paragraph 23, "After my visual inspection and subsequent report I did not make any further attempts to obtain the drawings." Now I appreciate you may not have known that then, back  
20 then, but you had no further discussion with Mr Coatsworth about the drawings other than at the time of the inspection?

A. Mmm.

Q. Is that correct?

A. Yeah.

25 Q. And just so we are clear you didn't, when you saw them, you didn't contact him and say look they are available now, I have seen them, because you had got his report and presumed that he didn't need them or if he did that he might have got them himself?

A. I think that is a fair assumption.

30 Q. But is that – that's the assumption you made at the time, is that right?

A. Yeah.

Q. Or you can't recall?

A. I can't recall, no.

Q. Did you understand from what he had said to you the relevance or importance of structural drawings in terms of –

5 A. He said – I got the impression he had a pretty good idea of how the building was made and you know, he'd poke his head through the suspended ceiling and be nodding and tutting and it seemed all pretty logical to him.

Q. Now I just want to refer to another email from, it's BUI.MAD249.0014B.RED.4. Okay now you see that that is an email from you, see at the top doesn't have your address but it has your name, the start of your address at the top there?

A. Mmm.

Q. To Simon Waring?

A. Mhm.

Q. Correct, 27 September?

15 A. Right.

Q. 2010. And you talk about settlement in the first – in the second line?

A. Mmm.

1100

Q. "Appointed a structural engineer 3K. He will report fairly quickly". So that's a reference to Mr Coatsworth's intended inspection?

A. Correct.

Q. And the next line, "Architect has made detailed inspection and report to follow, hopefully with quantification by QS."

A. Mmm.

25 Q. Now I think you might have been asked about this by us before but what's that a reference to?

A. I can only assume it would be a, um, a fit-out, um, architectural not related to the earthquake at all but related to tenancy potential.

Q. Okay because I think in your reply when we asked you that you said that "architect" should read "engineer", referring I think to Mr Coatsworth, but that can't be right can it?

30

A. No.

Q. Because the inspection hadn't taken place had it?

- A. No there's not enough detail.
- Q. Was there ever any inspection following the earthquake in terms of earthquake damage by any architect?
- A. Ah, the guy from Queenstown came through who'd done a lot of the previous tenancy – Mark (inaudible 11:01:36).
- 5 Q. Sorry, Mark?
- A. Vyranok.
- Q. How do you spell that?
- A. Good question.
- 10 Q. You don't know?
- A. V-R-Y something or other.
- Q. So he's an architect with who?
- A. Um,
- Q. Leading Edge is it?
- 15 A. Yeah.
- Q. You mentioned before, right and just tell us when was that?
- A. I couldn't recall the exact date, ah, pre Christmas at some point.
- Q. So post 4 September earthquake but before Christmas?
- A. Yeah.
- 20 Q. And what was the purpose of his inspection?
- A. Um, just casual interest because he had had quite significant history with doing multiple tenancies building.
- Q. Right, was it related to any kind of earthquake damage inspection or not?
- 25 A. Oh he showed interest in how the building had performed but in no formal capacity.
- Q. Right, did he complete or prepare any report?
- A. No.
- Q. So just a visual inspection and, what, spoke to you about it?
- 30 A. Yeah.
- Q. And did he pass on any conclusions that he had come to in relation to the damage or any conclusions that could be drawn from it?

A. No, no, he was talking about a job he had in Wellington where they had to spend millions doing earthquake strengthening of buildings.

Q. So do you think that's the architect that you are referring to. It doesn't sound like it does it?

5 A. It doesn't, no. I suspect it's an architect to do with the fit-out changes that we were coming up with. In the emails to Simon I usually covered the number of different points that we were working on.

Q. Right because you say in there the architect has made detailed inspection and report to follow, hopefully with quantification by quantity surveyor. So it was obviously someone who was going to do a report  
10 which was going to be quantified in terms of what he proposed?

A. Cost, yeah.

Q. Correct?

A. Yeah.

15 Q. You can't recall what that might have been then other than a fit-out of some sort?

A. I suspect it's something to do with fit-out, yeah.

Q. Who was moving in at that point though?

A. Um, I can't remember, ah, the, um, no I really can't recall what it would  
20 relate to, ah, specifically.

Q. I'll just get you to come back to the brief please, paragraph 25.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH  
25**

25 A. "On 29<sup>th</sup> September I met with the engineer, Mr David Coatsworth, of CPG and spent part of the day inspecting the building. He was a structural engineer and was accompanied by a quantity surveyor from Rawlinson's. Together they inspected the repairs and ultimately  
30 Mr Coatsworth prepared a report dated 6<sup>th</sup> of October. I asked that he provide three copies so that copies could also go to the insurer, to the building owners and myself. I understood that Mr Coatsworth had obtained plans of the building from the CTV maintenance man, Peter Brown. I was not aware of the contents of those plans."

**EXAMINATION CONTINUES: MR ZARIFEH**

- Q. I will just get you to pause there. I'll just ask you a bit about this inspection. So firstly you said they inspected the repairs, you mean the damage?
- 5 A. Yeah.
- Q. You said "repairs" there but you mean "damage"?
- A. Mmm.
- Q. And the plans that Mr Copesworth got from Peter Brown you said that you understood he'd obtained them. Was that when you were present
- 10 or not?
- A. No.
- Q. You went around with Mr Coatsworth on the 29<sup>th</sup>, the inspection?
- A. Yeah, yeah.
- Q. Were you with him the whole time or not?
- 15 A. Pretty much, yeah.
- Q. And did you point out damage that you were aware of?
- A. Yeah.
- Q. And did Mr Coatsworth look at areas that you may not have looked at. You mentioned him putting his head in the ceiling?
- 20 A. Yeah.
- Q. Presumably you didn't do that too or did you?
- A. No I didn't do that.
- Q. Right. Mr Coatsworth in his brief says that he spoke to a number of occupants of the building as you went round. Do you recall that?
- 25 A. Yes.
- Q. Can you recall what kind of things were said to you and Mr Coatsworth as you went round?
- A. I remember one, ah, tenant of King's Education, ah, observed that the floor had a wave in it and, um, Mr Coatsworth's explanation of that was
- 30 that was typical of this type of construction that there's a settling between structural beams and he wasn't concerned about it.
- Q. Right, was that perhaps Mr Godkin, do you remember his name or not, the tenant?

- A. Ah, I can't remember his name.
- Q. Anything else that you can recall anyone else said?
- A. Ah, there's a lot of pointing to cracks and, um, ah, where, ah, tenancy walls come away from the pillars. It was generally of that nature, and  
5 the broken windows.
- Q. Right, were there any comments about how the building felt after the September earthquake in the aftershocks?
- A. Ah, was there any comment –
- Q. – Were there any comments –
- 10 A. – at that time?
- Q. Yes.
- A. Um, not that I recall, um, oh people were explaining, yeah, what some of the aftershocks felt like, yeah.
- Q. How the building felt, how it felt?
- 15 A. Yeah.
- Q. And can you remember any of those comments, what they said they felt like?
- A. Nothing stands to mind, no.
- Q. I think Mr Coatsworth took a number of photos during the inspection?
- 20 A. Correct.
- Q. And Mr Pagan from Rawlinson's also says that he took photos. Do you recall that?
- A. Yes.
- Q. You've seen Mr Coatsworth's photos haven't you. I think they were sent  
25 to you?
- A. Yeah. I've seen a number of them, ah, for technical reasons I couldn't open up the full file but I've seen enough to, um...
- Q. And did they reflect the damage that you'd seen on that day from your recollection?
- 30 A. Yeah, yes.
- Q. Did Mr Coatsworth talk to you as he went around and inspected?
- A. Mmm, yeah he did.

Q. You mentioned some conversation before, the comment about not having x-ray vision. Did he express any views or conclusions he'd come to or not?

5 A. Well we soon got the feel for what was, um, just cosmetic, ah, damage and some of it looked more dramatic, um, where plasterboards had literally big crack renders in them but we soon began to adopt his attitude of that's only cosmetic, um, and he was more interested in the fine cracks, et cetera, on the stairwell which to a layperson just looked like nothing so it was interesting seeing his focus go to the less dramatic  
10 visually but yeah.

1110

Q. All right, and by the end of the inspection did you get any assurances about the building?

15 A. Yes, he said in his opinion that it had not suffered damage to cause concern, that he felt pretty sure that we were okay to stay in there and that was the impression. He said repairs would be a good idea to stop water going into some of the cracks but yeah the general feeling when he left was the building had performed okay.

20 Q. And when you got the report and read it, what did you understand as to the state of the building?

A. That supported what he'd already indicated.

Q. The report itself doesn't talk about or talk in phrases such as 'safe to occupy' or 'safe' but when you read it what impression did you have in terms of those, that matter?

25 A. That it was safe to occupy.

Q. Now in his report he mentions a couple of things that he was recommending follow-up on, are you aware of what I'm talking about?

A. Yes, the shear wall behind the external stairwell on the ground floor.

30 Q. And that was, had a plaster coating didn't it, a plaster lining, sorry, in front of it?

A. Yeah, yeah.

Q. And he was recommending that that lining be removed for further inspection?

A. Yeah.

Q. And he puts that in the report, correct?

A. Yeah.

5 Q. Was there any discussion about that at the time of the inspection when you were looking at that area?

A. Yeah.

Q. Just tell us about that.

10 A. I didn't accompany him into the room because it was used as the studio control room and it was just jam-packed floor to ceiling with electronic nonsense but when he came out he said it would be a good idea at some kind of, at some point if we have a look behind that wall and along the lines of, "This is a major structural element, this shear wall," and he'd like to just satisfy himself that that hadn't sustained any damage and he couldn't tell because of I imagine it's as much to do with the equipment as well as the plaster.

15 Q. Just be careful, I just want you to tell us what he told you, not what you assumed so just it might be a bit, we don't want to stray into you assuming things but just tell us what he said? So he told you that it was a major structural wall, that he wanted to have a look behind it?

20 A. Yeah.

Q. All right, and presumably that wasn't going to happen on that day of the inspection?

A. It was delivered with no urgency at all. It was a nicety was the impression I got. Just to be on the safe side.

25 Q. And nevertheless it finds its way into the report as a recommendation?

A. Mhm. Yep.

Q. Was that done?

A. No.

Q. Why not?

30 A. Well at the same time we're in discussion with CTV vacating the tenancy and that was well discussions that went from weeks to a month away and when I discussed with Murray access to that room his blood drained from his face. It would literally close them down.

- Q. What, because of the equipment that was in there?
- A. Yeah, yeah, they couldn't operate any of their studio.
- Q. Okay, when you found that out, when would that have been in relation to receiving the report?
- 5 A. Found what out?
- Q. Well when you had that discussion with Murray Wood when was that?
- A. The discussion around getting the equipment out?
- Q. Yes.
- A. Oh it would have been after the report came out.
- 10 Q. Okay, and when he told you that did you go back to Mr Coatsworth at all?
- A. No.
- Q. Did you get any, have any contact from him following receiving the report about that follow-up?
- 15 A. No.
- Q. So you never raised it again with him?
- A. No.
- Q. Did you not think it was important to do that or?
- A. No, I got the impression it was, it was a (inaudible 11:15:50) that entire wall as we went up through the floors didn't excite Mr Coatsworth real concern at all. The impression I got was it was, it would be nice to see and but not, take the wall lining off (inaudible 11:16:15).
- 20 Q. Another recommendation he made was in relation to the concrete block wall on the west side of the building. That's visible I think visible from the car park on first level, ground floor, and would have been covered by plaster board lining on the inside on the first and second floors or, sorry, second and third levels?
- 25 A. Mhm.
- Q. Do you recall that?
- 30 A. Recall his concern?
- Q. Yes.

- A. Yeah, the column had come away from the block infill and there was a, CTV on the first floor were using it as a storage for their film records and you could actually see daylight through it.
- Q. So when you say the column, do you mean the column or the plaster board?
- 5 A. The, well the plaster board and the column had parted company.
- Q. And so you could see daylight through that crack in the, between the two?
- A. Correct.
- 10 Q. How big do you think that crack was?
- A. Oh, 2mm.
- Q. And how long was it?
- A. About 10, going into tapering to nothing.
- Q. 10, 10 what?
- 15 A. 10, 10 centimetres.
- Q. At that time the building next door was still up?
- A. Correct.
- Q. So you couldn't examine the west wall from the other side? The outside?
- 20 A. Not the entirety of it, that building finished a little bit shy of the north east corner.
- Q. Oh I see so –
- A. (inaudible 11:18:17)
- Q. – could you get round that area?
- 25 A. There was a, it was, the access to it was problematic, there was a low, there was a wall and a low building from memory on the other side that –
- Q. Okay.
- A. – yeah.
- 30 Q. Did you go in that area in the inspection or not?
- A. We didn't go on the outside of that wall, no.
- Q. Had you ever been and looked at the wall at that point post-September earthquake?

A. You couldn't. The other building was still, you couldn't actually inspect it from the outside.

Q. Okay, sorry, I might have misunderstood you. I thought that you said that (inaudible 11:19:03) –

5 A. There was a small –

Q. – there was a small section?

A. Yeah, right on the corner.

Q. Could that be inspected?

A. Not, not easily no.

10 Q. Are you aware of anyone inspecting that area?

A. No.

Q. And you yourself didn't?

A. No.

15 Q. So Mr Coatsworth in relation to this area going back to the crack that you talked about on the first floor, second level, in his report he said, "There is a gap between the internal framing/lining on the west wall in the north west column, corner column. It is possible to see daylight through this gap. We assume that the sealant in the outer concrete block wall to concrete column joint has fallen out. This needs further  
20 investigation and repair."

**JUSTICE COOPER:**

Where are you reading from?

1120

25 **MR ZARIFEH:**

Sorry sir, I'm reading from the report

**JUSTICE COOPER:**

Red what?

30 **MR ZARIFEH**

Red 24 Sir.

**JUSTICE COOPER:**

Top of the page?

**MR ZARIFEH:**

5 Top of the page first –

**JUSTICE COOPER:**

Shall we display that?

**MR ZARIFEH:**

10 So red 24 please.

**EXAMINATION CONTINUES: MR ZARIFEH**

Q. I've just been reading to you from the top paragraph.

**WITNESS REFERRED TO DOCUMENT RED 24**

Q. And you'll see it finishes, "This needs further investigation and repair"?

15 See that?

A. Mhm.

Q. Right, my question is, was any further investigation carried out to your knowledge?

A. No.

20 Q. No. Was any repair carried out before the February earthquake?

A. Ah, yeah we were in the process of putting, ah, lining on the outside and –

Q. That's cladding?

A. Yeah.

25 Q. The cladding?

A. Yeah. Well as they removed the adjoining –

Q. Building –

A. – building we lost, um, all our waterproofing.

30 Q. In terms of investigation though did you have any discussion with Mr Coatsworth at the time of the inspection when you were looking at that area as to what might be required in terms of further investigation?

A. Yeah he wasn't concerned about it. He saw it as a sealer problem which I thought we'd take care of when we – that whole wall, the plaster was all cracked up as well we'd have to effect a repair when we did the repair of the entire wall.

5 Q. You're talking about the internal plaster board?

A. Yeah.

Q. Right at that stage the building next door was still there you said?

A. Correct.

Q. Were you aware whether that was coming down or not?

10 A. They, there'd been indications that it was coming down yeah, we didn't know when but I suspect the earthquake hastened.

Q. All right but in terms of further investigation from your point of view you didn't arrange for any you said and from what you said you didn't see that it, it was urgent is that fair?

15 A. Correct. Yeah.

Q. And did you have any further contact from Mr Coatsworth about that aspect the further investigation?

A. No.

20 Q. All right sorry, can I take you back to your brief. You were coming up to paragraph 26.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

25 A. "I received a copy of the CPG report attached to an email dated 8<sup>th</sup> of October and sent copies to Simon Waring and I may have sent copies to any tenants who requested a copy. I made further copies for those involved in the repair process. Mr Coatsworth later provided some additional photos."

Q. And I'll just get you to pause there, we'll get up Red 42 please.

**WITNESS REFERRED TO DOCUMENT RED 46**

30 Q. So that's the email sending you the report attached to it, "Find my report", second paragraph?

A. Mhm.

Q. Apologising for the delay and then attaching it. Thank you. Last line, "Call me if the report needs any further explanation. I would be

interested to hear what the EQC guys had to say". What's that a reference to?

A. I don't know.

Q. Were you having any discussions or dealings with EQC?

5 A. No.

Q. There was no residential element of the building was there?

A. No. No, I, I vaguely recall being puzzled with that as my understanding was EQC had nothing to do with commercial.

Q. Did you go back to him about that or not?

10 A. No.

Q. So you don't know what that's about?

A. No.

Q. Just something else I should have asked you about. Just prior to receiving that report, Mr Coatsworth in his brief of evidence says that at paragraph 93 says that on the 1<sup>st</sup> of October, so five days before or seven days before you received the report, when he's presumably working on it, he phoned you to say that a fence should be erected around the bottom of the fire escape stairs?

15

A. Mhm. Mhm.

20 Q. To prevent injury from any of the plaster spalling off the spandrel panels any of it dropping, do you recall that?

A. I don't, no. Mhm.

Q. So you don't know if that was done or?

A. No, no fencing was erected there and, I would have been responsible for that had I known about it.

25

Q. I'll just read you out what he says so that. He says, "On or about 1 October 2010 I a telephoned John Drew and advised him that a security fence should be erected around the bottom of the fire stairs on the south face of the building to prevent injury to people walking beneath the stairs should any of the plaster fall away from the damaged spandrel panels. I do not know whether this was undertaken". So firstly you can't recall the phone call?

30

A. No I can't.

Q. But it could be well right that he did phone you?

A. Well my assumption if he had said put fences round I would have had that done so...

Q. And you sound clear that you didn't ever do that,

5 A. No.

Q. Did any of the plaster fall as far as you're aware?

A. No, no...

Q. Prior to February I'm talking about obviously?

A. Yeah, the, no we didn't have any further problems with that.

10 Q. All right can I take you back to 27 please?

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "As regards insurance and repairs I initially dealt with Phil Hextall who was a loss adjuster with Vero Insurance and also Mike Collins, who was a loss adjuster with Cunningham Lindsey. Subsequently a loss adjuster, Michael Collins of Auckland was appointed through  
15 Cunningham Lindsey on about 8<sup>th</sup> of December."

**JUSTICE COOPER:**

Q. That's Mike Collins and Michael Collins are the same person I take it, it's just a bit of an editing problem with that paragraph.

20 A. Yeah.

Q. Isn't there?

A. Correct.

**EXAMINATION CONTINUES: MR ZARIFEH**

Q. Thank you, 28.

25 **WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "After that Cunningham Lindsey or Vero appointed Mainzeal with responsibility transferred to that company to carry out the repairs of the building. Mainzeal was then to send a new assessor. I was becoming concerned that I was spending time chasing around after Cunningham  
30 Lindsay and then Mainzeal and that I was getting the run around. On 19<sup>th</sup> of October 2010 there was a magnitude 5.0 earthquake in

Christchurch. After that I received an email from Mr Coatsworth who had at his own volition again inspected the building. His email confirmed that he was unable to point to any structural damage that was worse than his previous inspection. He noted that the building was still  
 5 'structurally sound' and he recommended the repairs be carried out as soon as possible in the form of epoxy injection into the concrete cracks."

Q. We'll just get that brought up. Red 43.

**WITNESS REFERRED TO DOCUMENT RED 43**

Q. Is that the email that you're referring to?

10 A. Yeah.

Q. You see in the first paragraph it says, "Further to our report dated 6 October 2010 and further to your request this morning, I took another look at the building", et cetera, right?

A. Mhm.

15 Q. You said in your, the brief you just read that it was of his own volition?

A. Mhm.

Q. That he inspected it, clearly his email at the time of 19 October is referring to your request that morning?

A. Mhm.

20 Q. Can you remember that, making that request?

A. No I can't.

Q. So you might have?

A. I could have yeah.

Q. Right and I presume if you can't remember it then you wouldn't be able  
 25 to say why you might have requested it?

A. No.

Q. Okay. Can you recall being concerned about the aftershocks that had been occurring since the 4<sup>th</sup> of February and in particular any ones that were five or above?

30 A. Can I recall being concerned?

1130

Q. Yes in terms of the building damage?

A. No.

Q. And when you had got this email in the last paragraph in particular where it said, "The building is still structurally sound." What was, what did you draw from that in terms of your point of view?

5 A. That – I heard nothing up until this point and that was continue the rhetoric coming from professionals and the green stickers that building was well built and structurally sound and there was no reason to doubt otherwise.

Q. Paragraph 30?

10 A. I received an invoice from CPG in relation to work undertaken on 22<sup>nd</sup> of October 2010. I note Mr Coatsworth refers to a second report. I do not recall ever seeing a second report.

Q. I think we will bring it up, red 45, seeing as you have referred to it. That is the invoice you are talking about?

A. Mhm.

15 Q. And as you have said it refers to additional work, the second inspection, again further as requested. That clearly is the inspection on 19 October or would appear to be?

A. Right.

Q. And you've covered that, you can't recall requesting that?

20 A. (no audible answer 11:31:40).

Q. Thirty one?

25 A. My focus was to have that repair work carried out as soon as possible. I felt I hadn't received any positive support from the insurer and so I asked Simon Waring to approach the owners to see if they would be prepared to spend money on the repairs in the first instance for those costs to then be covered from the insurer. To put it frankly I had become fed up with the insurer.

30 Q. And just if I can deal with, you've provided some copies of some emails that you retrieved. You said that documentation that you had was destroyed in the building?

A. Mmm.

Q. How were you able to retrieve these emails that you sent in?

A. Just off the history, email history from my Gmail.

- Q. And I don't know if we need to go through them but perhaps I will get the first one brought up. It is Red 51. There's an email from December the 6<sup>th</sup> from Mike Collins to you telling you that he's taking over the claim, get it settled, work towards settling it, correct?
- 5 A. Mmm.
- Q. And then perhaps we look at G53, an email from Simon Waring to Mike Collins and a copy to you, again about repairs. There is a reference there to tiling. Was that for the entrance-way, cracked tiles?
- A. Correct, correct.
- 10 Q. Fifty five, another one from Mike Collins to yourself and Simon Waring, is it, again mention about repairs, asking then for a breakdown of the CPG invoice, correct?
- A. Mmm.
- Q. And 57, there is a quote from a painter Jeremy Wells to you that you are forwarding on to the loss adjustor?
- 15 A. Mmm, that was for the entrance foyer.
- Q. And the bottom there an email from Mike Collins to you about damage repairs and whether they would be done or held off to see if aftershocks settle down?
- 20 A. Mmm.
- Q. You see that, the bottom email at the end of first paragraph?
- A. Mmm.
- Q. Fifty eight, again some more email correspondence, you sending a quote, it will come up in a moment, in the middle there, you sending a quote for film, is that for windows, treating windows?
- 25 A. Tinting the windows.
- Q. Tinting the windows and painting and the next page finally please, 59, in that email trail, is that an email you refer to the painter that we've just looked at, the email about – and then I think you are expressing your concerns in the last paragraph about any limitations of painting repair and repainting entire rooms, correct?
- 30 A. Yeah.

Q. So is that an example of the correspondence that you were having with loss adjustors, you mention?

A. Yes.

**COMMISSION ADJOURNS: 11.37 AM**

5

**COMMISSION RESUMES: 11.53 AM**

10 **EXAMINATION CONTINUES: MR ZARIFEH**

Q. Yes Mr Drew, you were up to paragraph 32.

A. I was in Okains Bay on holiday with my family and out of cellphone range when the Boxing Day earthquake struck. Whilst it was felt in Okains Bay it didn't register as a major event. However the next day when I went to Akaroa for supplies and was then able to clear my cellphone messages I received advice from Faye Kennedy the practice manager of my medical centre in Gloucester Street that those premises had been red stickered. There was also a message from Murray Wood advising the CTV building had been green stickered and that the CTV was continuing to operate from the premises. I understood Murray was letting me know about that simply as a matter of courtesy as CTV were the building's major tenant.

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Q. Can I just ask you about that. Were you aware of what level of inspection had been carried out by or on behalf of the Council?

25

A. No.

Q. And so you weren't aware whether there had been an internal and external or just external?

A. No I don't, ah, no, I don't know whether Murray conveyed that to me or not.

Q. But he simply conveyed that you'd been green – the CTV building had been green stickered?

A. Yep.

Q. Thirty four?

5 A. Because the Gloucester Street premises where the medical centre was based had been red stickered I decided to bring forward the date to relocate the medical centre to the CTV building. That location had been –

Q. That relocation?

10 A. That relocation sorry had been planned to be carried out in August 2011. Ultimately the relocation was completed by 10<sup>th</sup> of January when the medical centre first opened for business on the fourth floor of the CTV building. From the 10<sup>th</sup> of January 2011 my own office was located on the north side of the CTV building next to the lift on the fourth floor. I  
15 was regularly in the building between 10.00am and 6.00pm, five days a week. My wife Victoria worked as a doctor in the medical clinic for full days on both Tuesday and Thursdays.

Q. Just ask you a couple of questions about the aftermath of the Boxing Day earthquake. What new damage if any was there after the  
20 Boxing Day aftershock?

A. More windows had been broken and the cracks in the lift, stairwell sorry had in my opinion opened slightly more.

Q. So was it an extension of existing damage or new damage?

A. The windows were new, some additional windows, the rest seemed to  
25 be very minor increases in existing.

Q. And I think there was some discussion, I won't get you to go to them but, between you and the loss adjuster about whether it was existing, extension of existing or new. Do you recall that?

A. Yes generally that position was exactly that, that they were looking to  
30 say it was extension of existing.

Q. So to establish what damage there was, what did you do?

A. I rang the CPG office when I got into town. They had closed for holidays. I got a voice message, an automatic message saying they will

re-open I, think it was on the 9<sup>th</sup> of January so, I did nothing more than that, I thought I could do nothing more than that until the New Year.

Q. So were you back from Okains Bay by then obviously?

5 A. Yes, I don't recall the exact date. We packed up the camp as soon as I came back from receiving those phone calls realising that we had to get the medical centre out, all the computers and equipment out as soon as possible so that was my major focus at that time.

Q. But the CPG phone call I don't think that is in your brief. That is something you remember making from, obviously from Christchurch?

10 A. Yeah I made it from Christchurch, yeah.

Q. Did you follow that up?

A. In the New Year?

Q. Or did you ring again or speak to anyone?

A. No.

15 Q. What were you intending, what was your purpose of your call?

A. To see if they could come in and inspect it again.

Q. Why did you want that?

A. Just to follow up from what I was observing that there'd been no additional new damage, I would prefer to have an engineer look at it.

20 Q. Right, so there was nothing in particular that caused you to want to do that?

A. No.

Q. If that was the case then did you follow it up with any other engineer or the CPG in the weeks that followed?

25 A. What was happening at the same time was, I had made inquiry from Peter – David before Christmas as to who I should look to get the repair work done and I'd contacted three concrete repair engineers. I think at that point two had made their initial inspection and were preparing a quote for repairs and picking up from what David was saying, no x-ray  
30 vision and the next phase was to get these people on site, I thought I was better, my energies were better employed getting that next phase underway.

1200

- Q. Right. Okay, when you refer to David you mean David Coatsworth?
- A. Yeah.
- Q. Yes. So was that contact subsequent to the report, receiving the report about the repair people?
- 5 A. The enquiry for repair?
- Q. Well you said you had some contact with David Coatsworth?
- A. Yeah.
- Q. About repairers was that subsequent to the report?
- A. Yes.
- 10 Q. The building next door was being demolished about that time wasn't it?
- A. Correct.
- Q. Were you aware of any effects that that appeared to be having on the building on the CTV building?
- A. Yeah, they had pretty big diggers involved in pulling it down and it would get vibrations from their movements and, when they are dealing with it, whilst they weren't touching the two buildings were very, very close together.
- 15 Q. And did that concern you in relation to the structural integrity of the building?
- A. No. I mentioned that with David in one of the telephone conversations and he said, no just vibrations coming through the land.
- 20 Q. When was that? Or roughly when?
- A. It would have been before Christmas, they were, they were initially on site I think just before Christmas and talking with the supervisor guy he said they intended to be complete by early in the New Year.
- 25 Q. How much contact do you say you had with Mr Coatsworth after receiving the report on the 8<sup>th</sup> of October?
- A. Oh, I can't recall maybe two or three phone conversations.
- Q. Right, you said that you talked to him about concrete repair people?
- 30 A. Yeah.
- Q. And he suggested some names?
- A. Yeah, he emailed me a list.
- Q. Right what was the purpose of other calls?

A. I struggle to recall. Probably along the lines of the vibrations from the diggers or any concern we had from pulling the building down next door.

Q. So had you rung him about that?

A. I can't recall.

5 Q. Right. Were you getting any feedback from tenants about the demolition and the effects it might have on the building?

A. I recall one, the receptionist in Relationship Services saying that she had felt the vibrations from the diggers and was concerned that they might be weakening the building.

10 Q. All right. And was that, can you say whether that was before you spoke to Mr Coatsworth?

A. No I can't.

Q. What you said that he told you about that, did you pass that on to anyone?

15 A. If, if asked I would've passed it on yeah.

Q. Can you recall being asked?

A. No I can't.

Q. Margaret Aydon is a witness who gave evidence in the first week of the hearings and I'll just refer you to her evidence, just briefly. Paragraph  
20 13 of her brief she said, "Through a series of emails to Brian the staff asked if the building had been inspected following the Boxing Day earthquake. The email that came back", and I should have told you, or did you know who Margaret Aydon was? Had you had any contact with her?

25 A. No.

Q. She was at King's Education, so fourth floor?

A. Mhm.

Q. "The email that came back from him" from Brian of King's Education "attached an email from the building manager who I'm sure was  
30 John Drew telling us that the building had been inspected following the Boxing Day earthquake and that the building was safe to occupy". Okay?

A. Mhm.

**WITNESS REFERRED TO EMAIL**

Q. You can see it there on the screen?

A. Mhm.

Q. Do you recall an email to that effect?

5 A. From Brian?

Q. Well an email that you must have sent to Brian if she's talking about one from Brian which attached one from you?

A. I wouldn't have sent any email after, there was no engineering inspection after the Boxing Day.

10 Q. All right.

A. I can only assume there's confusion from the email I'd sent, I sent I know to Going Places and after enquiry.

Q. But that was in September?

A. Yeah.

15 Q. Right, this is after Boxing Day?

A. Yeah.

Q. So you don't recall sending any email to that effect?

A. No I (inaudible 12:05:52)

20 Q. Could you've passed on what you'd been told about the building being green stickered? Did you pass that on to anyone?

A. It was well known, I mean the sticker was –

Q. On the building?

A. On the building yeah.

25 Q. Right. What I'm asking I guess is could there be any confusion that you were sending emails saying it's safe to occupy because it's been green stickered?

A. I didn't recall sending an email after the Boxing Day at all.

Q. Okay.

30 A. The, the only other relevance I suppose is the, the concrete repair engineers. That was the time that they were coming and doing their initial inspections.

Q. But that wasn't an engineering inspection was it?

A. No it was concrete repair.

Q. Okay and I just want to refer you to some other evidence that we're going to hear from later today but I want in fairness to put it to you. It's from Jo-Ann Vivian who worked for Relationship Services and paragraph 20 of her brief which is WIT.VIVIAN.0001.5.

5 **WITNESS REFERRED TO DOCUMENT**

Q. You see in paragraph 20 she says, "On either 6 or 7 January 2011 I rang the CTV Building Manager, John Drew, to let him know that I had arranged for the Council to do a Rapid Assessment of the building. He told me that an engineer had been through the building after the September earthquake and again after the Boxing Day earthquake. I remember feeling a sense of relief that had occurred and was also a little embarrassed I had contacted the Council before checking with him. I told him I was concerned about the cracks I had seen in the column on the 5<sup>th</sup> floor. He told me he knew exactly which cracks I was talking about and that he and the engineer had discussed them and that he could reassure me that the building was structurally sound and safe to occupy. He said he would not put his tenants at risk and wanted to assure me was proactive in getting the building checked. He reassured me that the cracks I had seen were superficial and did not affect the structure of the building. He said that they would be repaired with some kind of plastic filling. I remember being reassured about the level of detail discussed and how committed John Drew was to the building and its tenants. I believed that he took his role as the building manager very seriously." Perhaps I'll just finish and then ask you. "I informed John about my call with the council and suggested he might like to contact them to tell them he had had the building inspected and to advise them that a Rapid Assessment was no longer necessary. He said that as I had made the original request it was best that I contact them and I agreed to do this." Then she talks a bit about what she'd heard about your efforts. Now firstly that conversation that she refers to, can you recall that?

A. Yeah, not in the detail she's recalled but yes I remember speaking with her.

Q. And so you recall her ringing you and asking you about in particular about the damage to that column?

A. Yeah, yeah I was aware of that.

5 Q. Right and she says in paragraph 20 that you told her that an engineer had been through the building after the September earthquake and again after the Boxing Day earthquake. Do you recall saying that?

10 A. No, I – there's confusion there, I would have obviously been referring to the September inspection and the crack to which she refers was in evidence then and he'd looked at it, Mr Coatsworth had looked at it in some detail.

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Q. Right. In the reference to you telling her that you knew the cracks and that you could assure her that the building was still structurally sound and safe to occupy. Do you recall saying that?

15 A. I would, yeah, I'm assuming I was relying on the green sticker again.

Q. You mean the post Boxing Day green sticker?

A. Yeah.

Q. Did you tell her that you were relying on the green sticker?

A. I can't recall.

20 Q. Right because she's calling you after, obviously after the Boxing Day aftershock on the 6<sup>th</sup> or 7<sup>th</sup> of January and she says anyway that you told her that it had been inspected after Boxing Day but the only inspection, as I understand it, would have been –

A. The Council.

25 Q. – the Council inspection which you received information from second-hand that there had been a green sticker effectively?

A. That's correct.

Q. Did you think to tell her that, that that was what you were relying on?

30 A. Um, no, no. I was very much relying on the green sticker, ah, indicating that it was safe to occupy and had been inspected, that we were well on track for having the recommended repairs effected and I couldn't observe any significant changes to the damage that had occurred in September.

Q. You didn't think after that conversation that maybe it should be inspected?

5 A. Ah, no because I was very focused on, ah, the next phase, ah, of the engineer's recommendations for the flow-on, again I don't have x-ray vision. I was under the impression I'd largely hear the same thing, that we need to get inside these walls and take more linings off to reveal if there had been more damage than what he was, ah, suggesting.

Q. So we're clear, was that removing the linings to see the extent of the damage or to aid the repair?

10 A. Both.

Q. Right, and this is what Mr Coatsworth said to you at the time?

A. Yeah.

Q. There's other evidence we heard last week to the effect of, for example, Mr Godkin who I referred to before the break, asking Brian Taylor of King's Education for an inspection after Boxing Day. Mr Godkin doesn't know if he passed that on, but do you recall discussions with Mr Taylor?

15 A. After Boxing Day?

Q. Yes.

A. No.

20 Q. Do you recall any other concerns being expressed by tenants other than Ms Vivian?

A. No, no. This is all of course generally we're having a range of aftershocks and everyone's pretty nervous. There was lots of conversations about earthquakes and buildings and...

25 Q. And were you having to reassure tenants pretty regularly then about the building?

A. No, no, um, no, the impression I got was we all had, ah, a lot of confidence in the stickering process and also the building it appeared strong.

30 Q. You see that's not the impression that has been given by a handful of people that were there that have been called post September and then particularly post Boxing Day that they were concerned about the building and it shook more and they were nervous when there was an

aftershock and even vibrations from the demolition. Was that not being conveyed to you. Is that what you're saying?

A. Correct.

Q. General impression?

5 A. Correct.

Q. And yet you accept that generally people were a bit nervous about aftershocks?

A. Mmm.

10 Q. But not in particular in relation to this building. Is that what you're saying?

A. Yeah, one thing that struck me was in Gloucester Street it was an incredibly shaky building. We were on a bus route and you could be in one of the consult rooms and it literally felt like an earthquake and some of the subsequent reports which I've read or comments my feeling was  
15 may have been reported by people who weren't in those rooms but hearing family members explain it to them. I just wonder whether there's confusion between the two buildings because, um,

Q. Okay but you're clear that that wasn't being conveyed to you?

A. Correct.

20 Q. The column on the top level that Ms Vivian was talking to you about, as you said it had been damaged in the September earthquake and there were cracks apparent?

A. Mhm, mhm.

25 Q. Did you see that column in January and February of 2011 when you were in the building?

A. Yes.

Q. Can you say how it appeared compared to when you inspected it with Mr Coatsworth?

30 A. Yeah it was, um, largely the same. I did note the cracks again had widened, um, and the columns were in part of the repair process that they were going to be chipped out, injected and sealed with a high build paint to stop water getting in them.

Q. When you saw they'd widened did you think about contacting Mr Coatsworth about that?

A. Well he had explained to me that's just a normal part of the flexing. He expected that. He indicated that there was no concern basically.

5 Q. That's in relation to the cracks as he saw them on the 29<sup>th</sup> of September?

A. Correct.

Q. But do you say that he said to you that there would be a certain amount of flexing in aftershocks?

10 A. Yeah and he would expect the cracks to open a little bit more.

Q. All right. Can I just take you back to the brief please, you were about to read paragraph 36.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH 36**

15 A. "On 15<sup>th</sup> of January 2011 Mr Waring advised me that the property owners had agreed for me to directly approach concrete contractors to have the building inspected and to prepare quotes for repairs. Quotes were received from contractors on the 15<sup>th</sup> of February and 22<sup>nd</sup> of February."

**20 EXAMINATION CONTINUES: MR ZARIFEH**

Q. I won't get you to refer to them because they are going to give evidence but you received one from Mr Peter Higgins I think the 15<sup>th</sup> of February?

A. Mhm, mhm.

25 Q. 2011 and from Concrete Protection and Repair Limited, dated 22 February 2011 the quote?

A. Mhm, mhm.

Q. And we're going to hear from those gentlemen, that the one in relation to Concrete Protection is Graeme Smith. Do you recall him?

A. Yes.

30 Q. I think he says that he visited the building three times and on the third occasion got someone from Otis to stop the lift and travelled on the roof of the lift to inspect the inside of the lift shaft?

A. Mhm, mhm.

Q. Were you aware of what he saw on that day, the cracks?

A. No, no.

Q. He didn't talk to you about what he'd seen subsequently?

5 A. I can't recall, no.

Q. All right, he's going to give evidence that he saw some horizontal cracks and I think Mr Coatsworth had seen those on the outside but he also saw two vertical cracks on the inside of the lift shaft on the north side so the end wall?

10 A. Mhm, mhm.

Q. You weren't aware of those?

A. No.

Q. Paragraph 37.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH**

15 **37**

A. "Essentially my primary efforts from October onwards was to get the repairs assessed, to ascertain the work required to carry out repairs and to obtain an authority to carry out those repairs. I felt I was being continuously hampered by the lack of support from the insurance assessors being both Cunningham Lindsey and Mainzeal which is why I moved to have the repairs carried out independently of the assessors. I have recovered some emails recording my dealings with the insurer and my frustrations.

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**EXAMINATION CONTINUES: MR ZARIFEH**

25 Q. And you've provided those. I won't get you to refer to those but you provided some of those?

A. Yes.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH**

30 **38**

A. "On Thursday the 17<sup>th</sup> February I met with Mr Hunter on the ground floor of the CTV building along beside the lift shaft. We then walked upstairs

viewing the concrete exterior of the lift shaft. The purpose of this meeting was to acquaint Mr Hunter with the work required, repair work required. I was anxious to have the repair work carried out as soon as possible. We then met with our representative –

5 1220

Q. Our respective.

A. – respective, sorry, solicitors in my office on the 4<sup>th</sup> floor of the CTV building. We discussed the limited timeframe within which this, within which settlement of the purchase needed to be completed given that the High Court had set a time line when settlement had to take place to enable the caveat to be removed. At that point there was a real likelihood that my purchase of an interest in the building would no longer proceed because Mr Lionel Hunter could not get title to his shares. Both parties expressed concern that the repairs would not be completed prior to settlement. How much money would be withheld by the purchaser from the vendor and thereafter held within a stakeholders' account prior to the completion of the repair work. It was recognised that the repairs would be carried out at the cost of the insurer. Notwithstanding the very significant delays in settlement and the subsequent earthquake damage to the building I still wanted to complete the purchase of a 4/9<sup>th</sup> interest in the building. I was however very frustrated with the insurer's lack of action in authorising the repairs.

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On Tuesday the 22<sup>nd</sup> February my wife and I were out of Christchurch but otherwise would be, would in all likelihood have been in the building when it collapsed. I had a filing cabinet in my office on the 4<sup>th</sup> floor of the building that contained all reports in my possession about the building, about the purchase and about the repairs. That cabinet and its contents were lost on February 22<sup>nd</sup>. Since then I have used my best endeavours to put together records of events and reconstruct files from the period September 10 through to February 2011 primarily through downloading material from computer files. The only engineering report I have been able to retrieve is the Coatsworth report of 6<sup>th</sup> of October 2010. I have

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no particular memory of a second report being prepared by Mr Coatsworth as noted on his invoice or of a report from Rawlinsons. Other reports that were in the cabinet relate to air conditioning, lift function and glass repair.

5 Q. Just on that Mr Pagan from Rawlinsons is going to give evidence of his inspection on the 29<sup>th</sup> of September with you and Mr Coatsworth and then of sending you a letter which is effectively a brief report on what he'd seen and quite an extensive breakdown of repairs and the cost of them, I think mainly plaster and I think amounting to some \$290,000 worth. Do you recall receiving that?

10 A. Yes I do. I was surprised to read that. I did receive a report from Rawlinsons.

Q. Okay, well this is your brief you're reading?

A. Yes, there's an error.

15 Q. Okay, so you recall receiving that, and the photos that he took? He encloses some photos?

A. I can't recall the photos.

Q. Right, okay, 44.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

20 A. "I do not have a copy of any letter that I may have, I do not recall –"

Q. "I do not have a copy of –"

A. "I do not have a copy of any letter I may have sent to tenants after the Boxing Day earthquake. I have only been able to recover documents by Gmail and if I wrote a letter that was not sent by Gmail I'm not able to recover a copy."

25

Q. Just pause there. I think that's perhaps your, you included that maybe because of a question asked by counsel assisting in written correspondence but the only email that you, that we've had reference to is that one sent after the September earthquake.

30 A. Mmm.

Q. Do you think there were other emails that you obviously haven't been able to recover but do you think there were other emails that you might

have sent to tenants in the period September through to the February earthquake? About the building and its state?

A. I don't recall any, no.

5 Q. I just want to ask you just while we're dealing with that, are you aware of any other quotes or work done on the building. Perhaps I'll just run through what we've been made aware of. I just want to make sure that there aren't any others that we've missed. Mr Coatsworth and his inspections. Mr Pagan from Rawlinsons that we've just referred to and his inspection on the 29<sup>th</sup> of September. You've had a reference to  
10 Jeremy Wells who was doing some painting, well giving you a quote for painting at the entranceway?

A. Mhm.

Q. We've heard or been referred to a Phil Reynish who was a painter?

A. Mhm.

15 Q. Do you recall him?

A. Yeah.

Q. And then a quote from a builder, a Mr Van den Berg from Standstill and Seymour Builders who I think might have then referred the work on to perhaps Mainzeal or Fletchers but Bruce Campbell Roofing Limited?

20 A. Mhm.

Q. And we've heard already from two people from that firm?

A. They were doing –

Q. Putting on the cladding. Mr Higgins who you mentioned?

A. Mhm.

25 Q. Mr Smith from Concrete Protection and Repair, Cunningham Lindsay, obviously Mike Collins that you've mentioned. Was it, did anyone else whether professional or trades person that you're aware of inspect the building for the purposes of a quote or do any repair work?

30 A. Yeah, there was a South African assessor employed initially by the insurance, um, can't recall his name and he subsequently went back to South Africa. I think we had three or four assessors.

Q. Is this for Cunningham Lindsay?

A. Yes.

Q. Okay, and I think you talked about Mike Collins taking over from them?

A. Yes.

Q. So anyone else that I've missed out?

5 A. You've mentioned Mainzeal. I was informed that they would be sending an assessor as early as early January and I hadn't seen anyone.

Q. I'm talking about people that actually to your knowledge went to the building for the purpose of quoting or repair?

A. Right, no I think that's, no.

10 Q. And you talked about the cladding on the west wall. Was any other repair work commenced before the 22<sup>nd</sup> of February earthquake? Not talking about quotes, but actual repair work.

A. Yeah, the windows had been extensive, were in the process of replacing all the broken windows.

Q. Anything else?

15 A. Not that I can recall, no.

Q. Margaret Aydon who I referred you to before talked about leaks into the ceiling, the fourth floor of Kings College. Do you know anything about that? Were you aware of leaks into the building at any stage?

A. In the –

20 Q. Between September and February?

A. – Kings Education?

Q. Yes or anywhere else?

25 A. Prior to my getting involved with the building there was, I can't recall any in King, there was a substantial leak into the upper stairwell. The public stairwell goes to the 5th level and then there's another small stairwell goes up to the cooling towers and the machine room for the lifts and I believe that had failed a year or two before 2011 and full repairs had been done.

Q. So was that something that was related to the earthquake?

30 A. No.

Q. As far as you were aware? No?

A. No.

Q. Was it, as far as you were aware, exacerbated at all by the earthquake?

A. No.

Q. The other thing I wanted to ask you about was, there's been a suggestion from the council records that there was a 9 kilogram gas cylinder on the, in the building. Were you aware of that or anything like that?

5

A. No.

Q. No. Were you aware of any flammable, potentially flammable substances that were stored in the building or would have, could have been there on the 22<sup>nd</sup> of February?

10 A. No, the only consideration I've had is the file storage of film work for CTV was quite substantial, their archives.

1230

Q. What, in terms of being flammable though?

A. Yeah. Old film used to blow up, I don't know what stock they held, video...

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Q. You can't think of anything else?

A. No, we had oxygen bottles.

Q. But presumably contained in bottles?

A. Yeah.

20 Q. Now just back to your brief please, I think you were on the final section, My Assessment of the Building, paragraph 45?

A. From 4<sup>th</sup> of September 2010 through to 22<sup>nd</sup> February 2011, I had complete faith in the structural integrity of the building. It was significant to me that the building was green stickered. I had read the structural engineer's report, I had spoken with the engineer and with the quantity surveyor. I had spoken with insurance assessors and with contractors. My focus throughout this period was to carry out the recommended repairs to the building as soon as practicable. I never for a minute thought any, had any thought that the building might be at risk of collapse. Since February 22<sup>nd</sup>, I have felt a huge sense of responsibility and I am forever questioning what might have been done differently. I can honestly say that on each and every occasion that I spoke with tenants of the building and the staff of the businesses located within the

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building, I gave what I believed to be an honest and fair assessment of the state of the building. Further, if I might just pass on my condolences to the families and friends who lost their lives.

**5 CROSS-EXAMINATION: MR ELLIOTT**

Q. Mr Drew, the questions I have are on behalf of families of those who died, some of whom are here today and others who will be watching online. Some of the families feel that you could and should have done more to find out whether the building was safe to occupy before the 10 22<sup>nd</sup> of February 2011. My questions are around that. Before doing so however I acknowledge the comments that you have just made and in fairness to you also highlight your comment that you had no previous experience in the field of property development, is that right?

A. That is correct.

15 Q. And you had thought the CTV building was a modern building, that's right?

A. Correct.

Q. And you said you placed some reliance on the fact the building had green placards after both the September and Boxing Day earthquakes?

20 A. That is correct.

Q. And indeed you and your wife worked in the building so in obtaining an assessment of the building you were seeking to ensure not only the safety of others but the safety of you and your wife?

A. That is correct.

25 Q. And it is right isn't it that you had also agreed before September to become a part owner of the building so it wasn't in any way in your interests to limit the type of assessment that you might obtain after any of these earthquakes, was it?

A. That is correct.

30 Q. And I should also say that in many ways the assessments that you arranged were not inconsistent with those which other property managers had arranged in relation to other buildings after 4 September.

Now just firstly in relation to the contract that you had signed, just so people can understand that, you had signed this contract to buy a share in the building before the September earthquake. Did you pay a deposit at that time?

5 A. Um, no.

Q. And as at the 4<sup>th</sup> of September and indeed the 22<sup>nd</sup> of February settlement had not yet taken place?

A. Correct.

Q. Did it take place after the 22<sup>nd</sup> of February?

10 A. No.

Q. So to summarise the position you were not actually an owner of the CTV between September and February but you were committed by your contract to pay for Mr Hunter's shares as long as the caveat was removed?

15 A. That is correct.

Q. You have said in your statement that as far as you are aware the building was code of compliant and entirely satisfactory and by that I think you meant compliant with current building code, is that right?

20 A. I wouldn't be familiar with the exact code but the Council made it clear that there was, it was compliant and there was no outstanding issues relating to the building as far as they were concerned.

25 Q. There will be evidence that a prospective purchaser of the building engaged an engineer in 1990 who provided a report then that there was a vital area of non-compliance with the code. You didn't engage an engineer either before or after September to give you any advice about compliance with the building code did you?

A. No.

Q. So the basis for your belief about compliance was purely, you assumed the Council would have picked anything up –

30 A. Correct.

Q. – and since they hadn't it must have been compliant. So your role between September and February was that of building manager and in that role you were responsible for addressing tenant's concerns for

arranging – and for arranging engineering assessments of the building, is that right?

A. I had no formal instruction or brief but I assume that yes.

Q. Had you had any previous experience as a property manager?

5 A. No.

Q. Before September 2010?

A. No.

Q. And your agreement with the owner is that you would be paid \$1000 per month for that role?

10 A. Yes.

Q. You were actually asked for that to be increased, did you after the September earthquake because there was an increase in the amount of work that you were doing?

A. Yes initially the fee was just largely to cover out of pocket expenses and  
15 time and my primary motivation was looking at repairs and maintenance that hadn't been done for some time and finding tenants. The earthquake obviously threw up a whole lot of other requirements that the owners reasonably expected me to fulfil.

Q. So was your payment increased from \$1000 per month?

20 A. Don't believe so.

Q. As part of your role as building manager, did you have any plans in place for the evacuation of the building in the case of earthquake or fire or initiate any safety drills?

A. I hadn't engaged in any, no. There was an evacuation – each business  
25 was responsible for its evacuation procedures and I noted all of them had, there was a warden for the building and an assembly, it had two assembly points in the car park.

Q. You mentioned in your evidence that your records were in the building at the time of the collapse. That was in your brief of evidence but in  
30 your evidence this morning you also referred to a laptop. Did you have a laptop which was not in the building at the time it collapsed?

A. Correct.

Q. And did that laptop have records relating to the building and your management of the building on it?

A. Only emails that was largely what was I able to extract. It didn't have any spreadsheets or other documents. Pretty well everything was in the file.

5

Q. The laptop was stolen was it?

A. Yes.

Q. When was that?

A. Ah, I think, I can't recall it may have been in June last year.

10

Q. You have given evidence about the dealings with Mr Coatsworth. Was Mr Coatsworth the only engineer that you contacted to carry out an assessment of this building?

A. Correct.

Q. And apart from Mr Coatsworth and those people from the Council who came through, are you aware of any other engineering or structural assessment of the CTV building between September and February?

15

A. No I am not.

1240

Q. Mr Zarifeh referred you to some parts of Mr Coatsworth's report and he referred you to the comment that structural and architectural drawings would be very helpful. If these can be made available they will help with the understanding of the structural systems within the building and he also referred you to the report itself which said, "We have not sighted any structural drawings." You looked at the Council file after having received Mr Coatsworth's report, not once but twice, didn't you?

20

25

A. That is what the record shows, yeah.

Q. But you didn't arrange for a copy of the drawings to be given to Mr Coatsworth to review or contact Mr Coatsworth and ask him to come and review them?

30

A. No.

Q. The evidence the Commission will hear suggests that the drawings on the Council file would have shown what Holmes Consulting did prior to 1990 as a vital area of non-compliance and the connection between the

north core and the floors. Do you agree now that given that the email from Mr Coatsworth said drawings would be very helpful and his report said that he hadn't seen them that you should have asked him to review those drawings once you had access to them?

5 A. No I don't agree.

Q. Wasn't it obvious to you that you if he had the structural drawings he could have given you a better assessment of whether the building was suitable for occupation after a major earthquake than what he had given?

10 A. I assume he wouldn't release the report unless he was satisfied that he had all the information he needed to do that report. I didn't feel it was – and certainly once I saw the structural detail of a building of that size I realised I had no understanding of what he may or may not require, not being familiar with multi-level construction so I assumed he would have  
15 sought whatever he needed.

Q. But you have already agreed that his report said he hadn't sighted the drawings?

A. Obviously he didn't need –

Q. Going off the email –

20 A. I assumed then he didn't need them.

Q. I see, so you formed the assumption –

A. Mmm.

Q. – that he didn't need them. Obviously it is futile to speculate now too  
25 much about how things might have been different but if you had asked Mr Coatsworth to look at those drawings and he had come back and said something similar to what Holmes Consulting said that there was a vital area of non-compliance, I take it that you wouldn't haven't moved the clinic into that building and you would have closed the building down so that issue could be looked at?

30 A. Oh, if I had any concerns or anything of that nature being relayed to me, yeah, I certainly wouldn't have moved in there, no.

Q. Mr Zarifeh asked you some questions about the south wall and Mr Coatsworth's recommendation about doing a further assessment of

that south wall internally. In your discussions with Mr Woods did you tell him that Mr Coatsworth had identified the wall as a major structural element and recommended an inspection?

A. Could you just repeat that sorry?

5 Q. So you have given evidence about your discussions with Mr Wood?

A. Mhm.

Q. About the possible inspection of that wall?

A. Yes.

10 Q. And my question is, in the course of that discussion did you tell him that Mr Coatsworth had identified that wall as a major structural element –

A. Yes.

Q. – and recommended an inspection?

A. Yeah.

15 Q. And was it after that conversation that a decision was made by you not to have that inspection carried out?

A. It was always going to be carried out, the practical nature of that inspection was influencing when and at no time was it relayed to me or I got the impression that it was a major urgent, needed to be done.

20 Q. Did you tell other tenants in the building that you've made the decision not to have that major structural element inspected despite a recommendation to do so?

A. As I have just said it was never that it was not going to be done, it was just when.

25 Q. You were asked about the demolition in the neighbouring property after the 4<sup>th</sup> of September. You were aware that there was a real concern to people within the building about the effects of that demolition on the CTV building weren't you?

A. People had mentioned it to me, yes.

30 Q. I can show this to you if you like but in an email to the loss adjuster on 17 January you said, "Our building was not weakened by the demolition," do you recall that?

A. That is – yes.

Q. And in a question directed to you by counsel assisting before the hearing you were asked, how you came to that conclusion and your answer was, "Observation and inspection could find no changes." So that was how you came to –

5 A. I had asked David if he thought there was any risk of that as well as Mr Coatsworth and he assured me that there would be no significant effect on the building.

Q. So did you carry out some observations and inspections of the building to determine whether it was weakened by the demolition or not?

10 A. Not specifically, no.

Q. Did you consider asking Mr Coatsworth to come and carry out that type of inspection when people expressed their concerns to you?

A. No I had a conversation on the phone and he assured me that it was very unlikely.

15 Q. You have given evidence that you didn't ask Mr Coatsworth to come back and do another assessment of the building after Boxing Day. You relied on the green placard that was in place at that time, did you?

A. Yes I did make a call to his office –

Q. You mentioned that –

20 A. – but I was relying on the green sticker, yeah.

Q. I will show you.

#### **WITNESS REFERRED TO GREEN STICKER**

Q. The Council has produced a report to us in which they show us the sticker itself that would have been used and I will bring that up,  
25 ENG CCC.0002F.78. So do you see there that document says, "Inspected. No restriction on use or occupancy," and then it goes on to say, "This building has received a brief inspection only. While no apparent structural or other safety hazards have been found, a more comprehensive inspection of the exterior and interior may reveal safety  
30 hazards." And it says further down, "Owners are encouraged to obtain a detailed structural engineering assessment of the building as soon as possible." That cannot have given you any assurance that the building was safe to occupy after Boxing Day, can it?

A. Ah, yes, well the fact is the Boxing Day earthquake occurred at a very difficult time in the year, people were away as the engineer office was. We'd also been red stickered out of our existing premises so, and going through this period we were well in train for getting the next phase as I understood it in the inspection and repair process underway and I saw basically that as a better course of action in the New Year. To get the concrete inspected would have then necessitated going into that south wall at that time. I thought I was advancing beyond just simply an inspection.

5  
10 Q. Jo-Ann Vivian's evidence will be that on level 6 following Boxing Day most of the filing cabinets had fallen over, shelving had emptied on to the floors and pictures and ornaments had been broken. You must have been aware of that?

A. No I wasn't.

15 Q. Mr Zarifeh has asked you some questions about telephone conversations that took place between you and Jo-Ann Vivian. Just want to show you two Council records of those conversations and then ask you to confirm your recollection of them. Firstly, BUI MAD 249.0310.1. Just have the comments enlarged please.

20 1250

**WITNESS REFERRED TO DOCUMENT**

Q. This is a Council record which appears to be dated 5 January 2011. The note says, "Fifth floor has a round structural pillar. It is just outside lift and has significant cracks in it. Jo-Ann was in the building since the Boxing Day quake and feels it should be re-checked. Staff on site would please liaise through her as she is the manager based in..." and then that part of it's not complete. And we'll show you the next one which is 0001.17, or BUI.MAD249.0310.2.

25

**WITNESS REFERRED TO DOCUMENT**

30 Q. That's a record which is dated 7 January 2011 and the comment there, "Jo-Ann has stated that landlord has had checked by structural engineer and all okay." Now when asked by counsel assisting for this hearing about your conversation with Jo-Ann Vivian you said you only had a

vague recollection of that telephone call. Is that right, you only have a vague recollection?

A. Mmm, yeah.

5 Q. But it appears that Ms Vivian's recollection is confirmed by the Council records made at the time. So having heard what her evidence will be from Mr Zarifeh and having seen these contemporaneous records, do you agree that she is correct that she did tell you that she'd asked the Council to inspect, but you told her the building had been checked by an engineer and it was okay?

10 A. I wouldn't have told her that, ah, an engineer that was under my instruction had been, ah, inspected it. The only, I've got no reason to doubt her record of it but, ah, I can only assume I was referring to the engineers associated with Council inspection. I certainly wouldn't have told her that I'd had an inspector or an engineer after Boxing Day.

15 Q. So you think that you would've been referring to the Council inspection which would've resulted in the green placard we've just looked at saying that it was a brief inspection only?

A. That's the only logical assumption I can make from what she's saying and what I recall. Um, and the only other engineers around and about  
20 the situation at that time were the structural engineer – the repair engineers.

Q. The other inference or assumption one might make is that for some reason you've lied to Ms Vivian about that inspection?

A. What purpose would that form?

25 Q. I don't know if there is any. You tell me?

A. Well I don't make the habit of lying to tenants and I would've had no reason to, um, I vaguely recall in that conversation she telling me that, um, the Council didn't have it on their list of buildings of concern. The – I would've had no reason to tell her I'd had it inspected when I hadn't.

30 Q. You weren't concerned about incurring another \$3000 for example?

A. No, it wasn't my money.

Q. You thought the insurer was going to pay?

A. No the build – I wasn't in any way responsible for the finances of the building. It was still in the ownership of, um, Madras Equity.

5 **JUSTICE COOPER:**

Mr Elliott I just want to interrupt but have we followed up on the reference to Paul Campbell there in this form?

**MR ELLIOTT:**

10 I'm not aware Your Honour but one of my colleagues could answer that. Apparently we have and he couldn't remember anything.

**JUSTICE COOPER:**

Q. The name Paul Campbell, does that mean anything to you Mr Drew?

15 A. No sir.

**CROSS-EXAMINATION CONTINUED: MR ELLIOTT**

Q. Mr Drew the column Ms Vivian was concerned about was outside the lift door on level 6 as indicated in the note that I've shown you. Mr Higgins took a photograph of that area and I'll bring it up for you,  
20 BUI.MAD249.0454.1.

**WITNESS REFERRED TO DOCUMENT**

Q. Mr Higgins saw you in February 2011 didn't he? He came and met you and took photographs at that time?

A. Mhm.

25 Q. I think he says L5 but I think by that he met the top level for our purposes. Do you recall seeing that cracking in the columns and beam in February 2011?

A. Yeah I know, know the reference. Someone's drawn over these.

Q. They have.

30 A. Yeah.

Q. But you agree that the damage was worse than it had been after September to that column and beam?

- 5 A. Not significant. Um, as I said, um, David had indicated that with the aftershock these, the cracks that had been initially caused will show some movement, but, um, as is evidenced by that and on his second, ah, visit, basically he hadn't, he'd done exactly the same then. Um, I had no cause for additional concern.
- Q. Wasn't it significant to you that the Boxing Day earthquake had been treated by the building's insurer as a new claim event?
- A. No.
- 10 Q. On the 21<sup>st</sup> of January you sent the loss adjuster an email, "We continue to be rocked around the clock and existing damage has increased." So obviously you were conscious, firstly that there was an increase to ongoing damage and that aftershocks were continuing, is that right?
- A. Mhm.
- 15 Q. And obviously you were aware that the Boxing Day aftershock had been severe enough to result in the clinic premises on Gloucester Street being red stickered due to the danger posed by a neighbouring building?
- A. Mmm.
- 20 Q. And yet you decided after Boxing Day to bring the clinic into the CTV building
- A. Mmm.
- Q. Did it occur to you that you'd been bringing more people into a damaged building including patients who may have been ill and might have struggled to escape during an emergency?
- 25 A. Did it occur to me I was bringing them into a damaged building?
- Q. When you made that decision to move forward the tenancy?
- A. I was aware that the building was safe to occupy and I was also aware – I wasn't aware of any building in Christchurch that hadn't suffered some damage of a similar nature.
- 30 Q. Were you aware of fire alarms in the building being triggered by aftershocks in the weeks leading up to the 22<sup>nd</sup> of February?
- A. No.

Q. Would you agree that in the circumstances I have outlined to you just now post Boxing Day that you should have arranged for Mr Coatsworth to come back and to re-assess that building after the Boxing Day aftershock?

5 A. As I said, I made a phone call to his office to effect exactly that. Once we got into January the obvious thing to me was to get the engineer inspections and repairs completed as per his reports and instructions and I am assuming at that time he would come in once they had exposed the cracking et cetera before they made the repairs and do a  
10 further assessment. I thought I was advancing along the path, appropriate path for safety and repair. I reject a suggestion I was holding back.

Q. Would you agree Mr Drew that by not asking Mr Coatsworth to come back and look at those structural drawings once they were available and  
15 by not asking for another structural assessment after Boxing Day that you didn't do everything you could have done to ensure the safety of those including yourself and your wife who occupied the building, before the 22<sup>nd</sup> of February?

A. Yeah I could have done those things.  
20 1300

Q. Is there anything you'd like to say about that?

A. Ah, (1) Mr Coatsworth under his own volition after one of the aftershocks had come in an inspected it. Um, if he required or was concerned about the building after any the subsequent events, I would  
25 have assumed he would have made contact with me as much as I made contact with him, um, and I didn't feel the responsibility was mine to give him all the, ah, structural reports he required to fulfil his job.

#### **CROSS-EXAMINATION: MR REID**

Q. I just have a couple of questions for you and they relate really to the  
30 issues that you've just been discussing around the stickering process and what occurred immediately after the September earthquake

because I think you've accepted that you were aware of what the green sticker said in general terms. Is that correct?

A. Correct.

5 Q. And when do you think you became aware of the significance of the green sticker?

A. I guess with most of the population of Christchurch.

Q. Did you recall reading the sticker at any point?

A. Ah, yes.

10 Q. And you talked about a walk-through meeting, a walk-through inspection that you had with Murray Wood in the days after the earthquake. Do you think that was when you would have read it?

A. Ah, possibly.

Q. But certainly at some point early on you would have read the green sticker?

15 A. Ah, yes, well if not at the CTV building then in Gloucester Street.

Q. So you were well aware of the significance of it and that as Mr Elliott put to you it really didn't provide any assurance that the building was safe?

A. The, um, there was an inferred assurance that it was safe to occupy as opposed to a red sticker.

20 Q. But the document itself and I'll just read it to you again, "The building has received a brief inspection only. While no apparent structural damage or other safety hazards have been found, a more comprehensive inspection of the exterior and interior may reveal safety hazards." So you would have been well aware of those words I suggest?

25 A. Yes.

30 Q. I'll just refer you to paragraph 20 of your evidence, this is the paragraph where you outline the email that you sent to some of the tenants on the 8<sup>th</sup> of September. This was following the 7<sup>th</sup> of September inspection, and you say, "The building had engineer inspections. We have been green stickered. We have been cleared to occupy the building. The damage is limited to glass and plaster damage." Then you say, "The structural integrity of the building to date has been deemed okay.

Should this change, you'll be informed." Well I suggest to you that in terms of the green sticker if that's what you were relying on, the structural integrity of the building at that date had not been deemed to be okay?

5 A. This is subsequent to, um, David Coatsworth having a look at it.

Q. No, this is on the 8<sup>th</sup> of September. Well did Mr Coatsworth have a look at it before the 8<sup>th</sup> of September?

A. I can't recall the exact dates. I don't have them in front of me but, um, the general feeling in Christchurch at the time was if you were green stickered you were okay, good to go. Whether that was being implied or not that's how everyone was responding.

10

Q. Well even if it was subsequent to this email that you found out that that wasn't the case, that a green sticker didn't mean the building was safe, you didn't take any steps did you to inform the tenants that your understanding had changed?

15

A. No. Everyone had their own opinion of what the green sticker meant.

Q. But I suggest to you that you knew what it meant because you'd read it?

A. That it's safe to occupy, it needs further inspection.

20 **COMMISSION ADJOURNS: 1.05 PM**

25 **COMMISSION RESUMES: 2.18 PM**

**JUSTICE COOPER:**

Mr Drew can I just ask you to acknowledge that the affirmation that you made continues?

30 **CROSS-EXAMINATION: MR RENNIE**

Q. Mr Drew you've been a company director since I think about 1984?

- A. I would imagine that's correct.
- Q. And over that time you've been a director of a number of companies?
- A. Correct.
- Q. And a number of those companies have been involved in property ownership have they not?
- 5
- A. Ah, yes.
- Q. And in some cases the leasing of property?
- A. Ah, yes.
- Q. Both as a tenant of properties owned by others and as the landlord letting properties to other tenants?
- 10
- A. Ah, yes.
- Q. So when you said this morning that you lacked experience in property development, you have had experience over many years in property ownership and property management haven't you?
- 15
- A. Yes.
- Q. Do you have formal qualifications in that work?
- A. No.
- Q. So would it be fair to say that your experience of how to manage buildings has been gained in the school of hard knocks?
- 20
- A. Yes.
- Q. Would you like to estimate how many properties you have been involved in owning or managing over the period since 1984?
- A. Ah, does that include leasing?
- Q. Yes.
- 25
- A. Ah, I wouldn't like to guess, um, when I had a company called (inaudible 14:21:09) Originals, it had 12, ah, retail outlets.
- Q. Yes. You were for a period a director of a medical centre in Wellington I take it?
- A. That's correct.
- 30
- Q. A medical centre in Kaiapoi?
- A. That's not correct.
- Q. There was a company of which you were a director called the The Crossing Medical Centre Kaiapoi?

- A. That's not correct.
- Q. EGT Holdings Limited owns how many properties?
- A. Ah, one.
- Q. How many has it owned in the past?
- 5 A. Um, I don't recall, probably one.
- Q. You have been a director since 1989 of a company called Lulu Properties Limited?
- A. Correct.
- Q. Was it this background that gave you the confidence in 2010 to put yourself forward as manager of the CTV building?
- 10 A. Was it my ownership of?
- Q. We've just traversed what you'd been doing up until then. Was that why you were confident you could become the property manager of the CTV building in 2010?
- 15 A. Yes.
- Q. Yes. Now up until then the building had been managed by Mr Ibbotson hadn't it?
- A. It's my understanding yes.
- Q. Mr Ibbotson, have you ever met Mr Ibbotson?
- 20 A. Yes I have.
- Q. The chartered accountant from Alexandra?
- A. It's my understanding.
- Q. And we've been told that he retired in 2010?
- A. That's my understanding as well.
- 25 Q. Was that a factor in Mr Hunter's decision to sell out of his interest in the building?
- A. I've got no idea.
- Q. In all events you've indicated that until you took up the building manager's position in May 2010 there was a gap in the management of the building, that's correct?
- 30 A. Um, more than likely although Simon Waring was operating in that capacity I imagine.
- Q. And he's based in Alexandra?

A. Correct.

Q. Now in approximately April or May you state you became the unconditional purchaser of Mr Hunter's interest although he couldn't settle because of the caveat, that's the case?

5 A. That's correct.

Q. And did that happen before or after you became the building manager?

A. Did what happen sorry?

Q. Did you become the unconditional purchaser before or after you became the building manager?

10 A. Before.

Q. So that by the time you became the building manager you believed that you were subject to final settlement and owner of four ninths of the building?

A. Correct.

15 Q. When you became the building manager you also believed that you had full authority from all owners to manage the building?

A. Correct.

Q. "The Eglings" for whom you've referred, you've indicated were a couple of couples, live respectively in Timaru and Haast I think?

20 A. That's correct.

Q. Did they ever take any active part in the management of the building after you became the building manager?

A. Ah, the process was I would have a discussion with Simon or he with me and it was his decision if he thought necessary to get approval or sign off from the shareholders.

25

1425

Q. And the approval as you referred to would relate to financial approvals?

A. Simon basically just made that decision.

Q. Yes. So from May 2010 you were effectively solely in control of the CTV building, that is correct?

30

A. Ah, no, as I say Simon was my reference point and every decision was either made by him or authorised by him. I had no financial or any other authority than to be the man on the ground effectively.

Q. Did he ever deal with the tenants of the CTV building to your knowledge?

A. Simon? Yes.

Q. In what way?

5 A. Um, by telephone.

Q. Now you've indicated you live at Little River. On how many days a week would you normally come into Christchurch for your business matters?

A. Oh, it varies enormously.

10 Q. In *The Press* newspaper of 24 March 2004 you are reported as saying that your business interests mean that you don't need to be in town every day and you then had plans for semi-retirement. Do you recall that?

A. Mmm, probably.

Q. And was that correct?

15 A. I will take it as correct.

Q. And have you been able to implement those plans since 2004?

A. No.

Q. You went on to say you were a keen surfer and skier and you liked to have time for those indulgences. Do you recall that?

20 A. Probably.

Q. So on how many days a week in your estimate from the time you became building manager did you work for any part of that day as the building manager?

A. Before the earthquake?

25 Q. Yes?

**JUSTICE COOPER:**

Q. Which? You are going to answer before the September earthquake?

A. Yes.

30 **CROSS-EXAMINATION CONTINUES: MR RENNIE**

Q. Yes, I was just going to say Sir, May to September 2010?

- 5 A. Um, I am guessing probably a day a week on average. It was driven really by, my primary concern at that time was picking up on maintenance items that hadn't been attended to and tenancy, primarily leasing vacant tenancies so it would largely depend on the work rather than my directing it.
- Q. Would you accept that you were perceived from May 2010 by the tenants to be the building manager?
- A. Um, yes.
- 10 Q. And when you took on that position did you take over any records or files?
- A. There was parts of files that I asked for relating to who had ongoing service contracts with, the likes of electricians, OTIS elevators and I – one needed to know who they were and the histories we had had with them.
- 15 Q. And where did these documents come to you from?
- A. Simon Waring.
- Q. Now later in your evidence you talk about your office being on level 4 of the CTV building, you recall that?
- A. Correct.
- 20 Q. But at the time we are talking about May to September 2010, did you maintain an office at Gloucester Street?
- A. Partial, most of the office was a home office at Little River.
- Q. When did you first initiate an office at level 4 of the CTV building?
- A. I can't recall the exact date. I imagine it is sometime around that
- 25 September, October period.
- Q. And exactly which space was that office located in?
- A. Next to the lift on the fourth floor.
- Q. Now we've had confusion about floor levels so the occupant of the balance of the floor was?
- 30 A. New Regent Medical Centre.
- Q. But it would not have been there when you first established the office I take it?
- A. No.

- Q. And did you move your records to that office from Gloucester Street?
- A. Yes partially.
- Q. When did you do that?
- A. I can't recall the exact date.
- 5 Q. Did you move your records from your home office at Little River to the CTV office?
- A. Yes.
- Q. When did you do that?
- A. I can't recall.
- 10 Q. Was it before or after the medical centre moved into the CTV building?
- A. Prior.
- Q. Prior to Christmas?
- A. Yes.
- Q. Your reason for moving them from Little River was what?
- 15 A. Centralise and easier access.
- Q. You've indicated there was service contracts for such organisations as the elevator and the electrical works. Was there an overall maintenance plan or preventive maintenance programme?
- A. In the critical services, yes.
- 20 Q. And was that something you created or did you take it over?
- A. Took over.
- Q. And who managed that?
- A. Prior to me?
- Q. Yes?
- 25 A. I am assuming Russell did.
- Q. Did it have an engineering or building services firm involved in it in a general way?
- A. No.
- Q. Would it be fair to say that in fact work on this building was done on an ad hoc and reactive basis not on a programme basis?
- 30 A. Um, no the air conditioning, the elevators, the electrical certificates were on a programme. Cleaning, security was on a programme.

- Q. Now you've indicated in your evidence that it was your longer term intention to move the clinic to the building as the first step in converting it to a larger medical centre, that is correct?
- A. That is correct.
- 5 Q. That was a view you held as far back as May 2010?
- A. Correct.
- Q. Do you accept that to do that would require a Council approval for a change of use of the building?
- A. No, I didn't believe it did.
- 10 Q. Did you investigate whether a building of that character would be a health centre as described and defined in the Christchurch district plan?
- A. Ah, no.
- Q. So can we take it that when you moved the clinic there in early January 2011 you had not sought or obtained any consents from the
- 15 Council for that to be done?
- A. Ah, I wasn't aware any was required.
- Q. Well who did you ask to find out?
- A. Um, made an inquiry at the Council.
- Q. Did you say to the Council that you wished to move a medical centre
- 20 into this building?
- A. I had already made inquiries as to whether the building or whether I could move the medical centre into the building and I wasn't aware of any restrictions or authorities required.
- Q. When did you do that?
- 25 A. It must have been about May or June.
- Q. How did you do that?
- A. By telephone.
- Q. Who did you speak to?
- A. Got no idea.
- 30 Q. Do you have any record of it?
- A. No I don't.
- Q. Did the Council send you any confirmation?
- A. No they didn't.

- Q. Are you aware that after the February 2011 earthquake persons associated with your clinic made public criticism of the unsuitability of the building for that use?
- A. I am aware of that.
- 5 Q. There were no hand wash basins, that is correct?
- A. Not correct.
- Q. There were no separate patient toilets?
- A. Separate from?
- 1435
- 10 Q. Those that the staff used?
- A. Ah –
- Q. To avoid cross infection?
- A. That does not avoid cross infection, no there was a male and a female toilet.
- 15 Q. Yet shared by patients and their, whatever their health state and staff?
- A. Correct.
- Q. No walk in access?
- A. Insofar as walking into the lift well?
- Q. No walk in access to the premises on the level of which the medical
- 20 centre –
- A. It wasn't on ground floor.
- Q. Correct. Stretchers would not fit in the elevators?
- A. No they couldn't fit in lying down.
- Q. They could not fit in lying down. Disabled people in an emergency
- 25 situation would be four or five levels depending on how you count them above street level wouldn't they?
- A. That would be true of any high rise building.
- Q. Would you expect these to be matters that a Council consent would address?
- 30 A. No.
- Q. Now the ownership of the business known as The Clinic is a company called New Regent Medical Centre Limited isn't it?
- A. Correct.

- Q. Owned roughly three quarters by your company EGT Holdings and as to the other quarter approximately by your wife?
- A. Correct.
- Q. And you probably in a trust wholly own EGT Holdings I take it?
- 5 A. Correct.
- Q. So that when the clinic was no longer able to operate at Gloucester Street premises by reason of those premises being red stickered you had to find alternative premises for that business didn't you?
- A. Correct.
- 10 Q. Who negotiated with who to establish the tenancy arrangement under which the clinic went into the CTV building?
- A. I negotiated with Simon Waring.
- Q. And did that lead to a lease?
- A. We hadn't drawn the lease up with an arrangement for three months
- 15 while we set it up. Obviously the earthquake and the ensuing rush to get things done, no we had no formal documentation.
- Q. And in addition to your company's occupancy of the space you had some three sub-tenants who conducted their own medical practices did you not?
- 20 A. That's correct.
- Q. Yes, who negotiated the terms of those sub-tenancies?
- A. I did.
- Q. Isn't the essence of it that the economic necessity to find a home for The Clinic meant that you simply moved it into space in the CTV
- 25 building whether that space was suitable or not?
- A. That's not correct.
- Q. And in what way do you say it's not correct?
- A. The planning for The Clinic to go in there had begun in May of that year and the situation where, we were red stickered meant that it went ahead
- 30 in a shorter time frame than what we were anticipating only.
- Q. When Mr Coatsworth came to look at the building after the first earthquake did you talk to him about those plans?
- A. I can't recall.

- Q. Nothing in his report is an evaluation of the impact on floor loading or other services of the modifications needed for a health centre in the CTV building is it?
- 5 A. Floor loadings wouldn't be anything unusual for an office environment anyway.
- Q. So in fact that's something you're confident you have knowledge of without needing an engineer?
- A. No.
- 10 Q. Did you think you needed an engineer for anything to do with moving The Clinic into the CTV building?
- A. No there was nothing either heavy or of great usage. We did ask for plumbing people to look at it. Part of the fit-out which we were about to embark on would have involved engineering and consents for plumbing and toilet facility upgrades.
- 15 Q. Now between the September earthquake and the Boxing Day earthquake there were demolition works alongside the CTV building in what has been called the old Les Mills building weren't there?
- A. Yes, that's correct.
- Q. Did you inspect those works?
- 20 A. Not in any real detail.
- Q. What discussions did you have with the demolition contractors Frews about the carrying out of those works?
- A. Basically what time frame they were looking at and whether they'd be endangering anybody coming into or leaving the carpark area.
- 25 Q. Tenants were complaining that the CTV building was showing uncomfortable movement during the period of demolition weren't they?
- A. I've heard that at this hearing yeah.
- Q. Do you say that no tenant told you that between September and Boxing Day 2010?
- 30 A. No. People were commenting on it and I could feel it myself. It was a shudder occasionally when the...
- Q. Now you've indicated that –

**JUSTICE COOPER:**

Q. I'm not quite that he finished his answer, had you Mr Drew?

A. There were quite substantial machinery, at one point I think they had three 25 plus tonne diggers on site. So I wasn't surprised.

**5 CROSS-EXAMINATION CONTINUES: MR RENNIE**

Q. You've indicated that the two buildings were essentially next to each other with almost no gap between them?

A. That's correct.

10 Q. That's correct. And part of the demolition works consisted of the excavation of the foundations of that building, correct?

A. I can't comment.

Q. Didn't see?

A. I didn't know where the, where the foundations started or stopped or the only thing I basically knew was they were converting it into a carpark.

15 Q. In your experience of buildings have you ever known a building where the foundations were not aligned with the outside walls?

A. No.

20 Q. No. So that part of the demolition of the Les Mills building would consist of the excavation of the foundations immediately adjacent to the CTV building wouldn't it?

A. As I say I've got no understanding of the unique nature of those connections or lack thereof.

Q. It's not a matter you paid attention to at the time?

A. I didn't think so no.

25 Q. No. Not a matter on which you obtained an engineering evaluation?

A. No.

Q. No. Did you ever ask Frews for the plans of the intended demolition and how it would affect CTV?

A. No.

30 Q. To this day do you know in what way if any that demolition did affect the CTV building along the western wall?

A. No I do not.

Q. Now once you'd moved The Clinic in, in January 2011 would it be fair to say that that move was not favourably viewed by a number of the staff of The Clinic?

5 A. It wasn't my overall impression. Obviously any move and under those circumstances there were some trying aspects to it. We were camping in a, we hadn't had the opportunity to get the place ready. There was very real compromises people were having to make.

Q. Staff resigned?

A. I think we had one nurse leave yes.

10 1445

Q. Well Dr Bell gave his resignation but was still working it out at the time of the earthquake, that's correct?

A. That's, that's not correct.

Q. That's not correct?

15 A. No. He had moved from permanent staff to locum only. It's for reasons that were personal to him and nothing to do with the, us being in the CTV building.

Q. Do you say that you were not made aware by a number of staff at that time that they found the building unsafe and a place where they had difficulty working?

20

A. No, we, there were conversations around, "Is this safe?" There was conversations around, "I don't like earthquakes," as were going on, I imagine, in every office and work environment in Christchurch at the time.

25 Q. Did it occur to you to get Mr Coatsworth back to reassure them?

A. No.

Q. Mr Coatsworth at the time was a senior associate with CPG, that's correct?

A. I don't know his stature within his organisation.

30 Q. That's part of the International Downers Engineering organisation isn't it?

A. I'm not aware of that.

Q. So do you say that before hiring Mr Coatsworth you did not investigate the qualifications and credentials of the business from which he came?

A. That's correct.

Q. How do you explain that?

5 A. I don't.

Q. After the Boxing Day earthquake did you leave any message when you tried to contact Mr Coatsworth?

A. I don't believe I did.

10 Q. Does that indicate that you did not regard the enquiry as being of any particular importance?

A. No.

Q. Now by January 2011 your office was on the fourth floor of the building immediately adjacent to The Clinic? That's correct?

A. We regarded the whole floor as The Clinic.

15 Q. You maintained an email address through Gmail, that's correct?

A. That's correct.

Q. You also maintained an email address through The Clinic email system, is that correct?

A. That's correct.

20 Q. After the earthquake The Clinic stated publicly that it had been able to retrieve its records because it had a backup system, are you aware of that?

A. Yes.

25 Q. Can you account for not being able to recover your emails from The Clinic email system in those circumstances?

A. The backup for The Clinic was patient records, not email and I was able to recover the majority of my other emails as it was in the cloud in Gmail.

30 Q. Did you in fact attempt to recover all your emails by also checking The Clinic's email system?

A. I wasn't in the habit of using the, there would be nothing substantial if anything on The Clinic my email address at The Clinic.

Q. The question though was whether you attempted not whether there would be anything there?

A. No.

5 Q. Would it still be possible to access The Clinic's system to see what emails from you and to you can be found there?

A. I don't think so.

Q. And your reason for thinking it's not possible is what?

10 A. The database was held by Pegasus Health which largely related to, not solely related to that, patient records. I'd have doubt whether they would give data space to or have willingness to get involved with private emails or personal emails within a clinic that would include doctor's emails as well.

15 Q. You recognise there is evidence of at least one email sent by you but not now findable by you making statements as to the safety and the engineering inspection of the building?

A. Am I aware of what sorry?

Q. Do you recognise that there is evidence from others of at least one email sent by you making statements of reassurance as to the safety and the engineering state of the building?

20 A. No, I'm not aware of that.

**CROSS-EXAMINATION: MR MATTHEWS – NIL**

**CROSS-EXAMINATION: MS BRYANT**

25 Q. Mr Drew, you gave evidence this morning that during your inspection, sorry Mr Coatsworth inspection on the 29<sup>th</sup> of September Mr Coatsworth recommended that the linings on some of the building be removed to look at the damage to the structure behind to see if there was any damage, do you remember that?

A. Yes.

30 Q. I'd like to have a look at Mr Coatsworth's report which we know was sent to you on the 8<sup>th</sup> of October. That's, the copy I have is

WIT.COATSWORTH.001H. Now you would have read through this report Mr Drew when you received it?

A. Yes.

5 Q. If we could go through to page .5 on that pdf thank you? Two-thirds of the way down the page there's a reference to the south elevation shear wall?

A. Yes.

10 Q. And if you look at the final paragraph there Mr Drew, you can see that the paragraph reads, "No cracking was observed in the gypsum plaster lining of this wall at levels above the second floor. It seems likely that cracking is present in the ground storey portion of the wall, similar to that of the first storey. We would expect that any cracks present are relatively fine and similar in width to those on the first storey. We recommend that the internal ground storey strapping and plaster board lining be removed to view the structure behind." So there was a recommendation there wasn't there to remove the linings in that particular location on the ground floor?

A. That's correct.

20 Q. If we could go over two pages please to .7? We see the heading 'Non-load bearing concrete block walls'?

A. Yes I can.

25 Q. And the second paragraph below that, half way down, paragraph reads, "There is a gap between the internal framing lining on the west wall and the north west corner column," and, sorry this is on level 2 as we can see if we read earlier in the paragraph. "It is possible to see daylight through this gap. We assume that the sealant in the outer concrete block wall to concrete column joint has fallen out and this needs further investigation and repair."

A. Correct.

30 Q. So did you see that as a recommendation that the linings be removed in that particular location too?

A. It didn't relate to the linings, it was the join between the vertical column and the infill (inaudible 14:53:39) blocks.

Q. But further investigation was required on level 2 and –

A. Yes.

Q. – in that particular corner of the building?

A. That's correct.

5 Q. These are the only references in Mr Coatsworth's report aren't there to a requirement to remove linings to better view the structure, is that correct?

A. Correct.

**RE-EXAMINATION: MR ZARIFEH**

10 Q. Mr Drew, you said that your laptop was stolen I think you weren't sure when but you thought in June of last year?

A. Yes that's correct.

Q. Did you report that to the police?

A. Yes, I did.

15 Q. And was a complaint taken and did you receive a confirmation from the police for insurance purposes?

A. Yeah.

Q. Did you follow that up and claim on it? Claim for it?

A. Yes.

20 Q. And I presume the police didn't have any success finding it for you? Finding out what had happened to it or did they?

A. Yeah, well no they didn't find it. They found the person who did it.

Q. But didn't recover the laptop?

A. No.

25 Q. Was that person charged with anything?

A. No.

Q. But that's what you were told by the police?

A. Yeah.

Q. Why were they not charged do you know?

30 A. I thought it was better not to prosecute at that time as known for quite violent tendencies and –

Q. Okay.

A. – having three women at home I just didn't think it was worth it.

1455

Q. All right and you were asked about a maintenance programme for the building?

5 A. Mhm, mhm.

Q. Did the building require a warrant of fitness?

A. Yes.

Q. And were you aware of what was required for that as far as being the building manager?

10 A. Ah, yes. There was a company commissioned or I took over the relationship, took care of warrant related requirements.

Q. Right, do you know when the building's warrant of fitness was coming up or...?

A. No I can't recall.

15 Q. What about at the time of the September earthquake. I presume you had a current warrant of fitness?

A. Ah, I believe we had a current warrant of fitness, yes.

Q. All right and there was no outstanding requisitions as far as you were aware?

20 A. Correct.

Q. But you're not sure when it came up for renewal?

A. I can't recall.

**QUESTIONS FROM COMMISSIONER FENWICK – NIL**

**QUESTIONS FROM COMMISSIONER CARTER – NIL**

25 **QUESTIONS FROM JUSTICE COOPER – NIL**

**WITNESS EXCUSED**

**MR REID CALLS****MARIE THERESE HOLLAND (SWORN)**

Q. Your full name is Marie Therese Holland?

5 A. Yes.

Q. And you're currently employed by Fletcher Construction Company EQR Project as a Contract Supervisor?

A. Yes.

Q. And you've been working for the company since November 2011?

10 A. Yes.

Q. Between January 2010 and October 2011 you were employed as a building inspector by the Christchurch City Council and you hold a Bachelor of Architectural Design?

A. Yes.

15 Q. Ms Holland you have prepared a brief of evidence for the purposes of these proceedings?

A. Yes.

Q. Do you have that in front of you?

A. I have.

20 **WITNESS READS BRIEF OF EVIDENCE COMMENCING AT PARAGRAPH 2**

A. "As part of the Christchurch City Council's earthquake response to the 4 September 2010, Boxing Day 2010, 22 February 2011 and 25 13 June 2011 earthquakes I was involved in carrying out rapid assessment inspections of commercial and residential buildings. On the morning of the 4<sup>th</sup> of September 2010, I received a call to report to the Civil Defence Emergency Operations Centre at the Christchurch Art Gallery. John Buchan, who at the time was the Council's Engineering Services Manager, gave a briefing to staff present explaining the rapid 30 assessment inspection and placarding process. John explained that the primary focus of the level 1 rapid inspections was to identify any obvious building damage and/or external hazards which could pose a danger or risk of injury to members of the public. Immediately after the

4 September 2010 earthquake I was attached to a USAR team conducting rapid assessment inspections of commercial buildings. Following on from this I was part of other Civil Defence teams inspecting commercial buildings throughout the city before being reassigned to inspect residential buildings. At the time of the Boxing Day 2010 earthquake I was on holiday. On the morning of 27 December 2010 I cleared a message on my cellphone asking if I was available to report for work. I travelled back to Christchurch arriving during the afternoon of the 27<sup>th</sup> of December 2010 and immediately reported to the Operations Centre at the Christchurch Art Gallery. From 27<sup>th</sup> December to 31<sup>st</sup> of December 2010 I carried out a number of rapid assessment inspections of commercial buildings as part of a Council inspection team. The instructions received for carrying out the rapid inspection assessments following the Boxing Day 2010 earthquake were to use the same criteria as used during the Civil Defence Emergency for the September 2010 earthquake. That was the level 1 rapid assessment inspections were to focus on identifying any obvious building damage and/or external hazards which could pose a danger or risk of injury to members of the public.”

20 **EXAMINATION CONTINUES: MR REID**

Q. I will just stop you there Ms Holland you're about to go on and talk about the rapid assessment form?

A. Yes.

Q. So I wonder if that could be brought up for you. You see that document in front of you?

A. Yes.

Q. Is that the rapid assessment form that you filled out and you are about to speak about?

A. Yes.

30

**JUSTICE COOPER:**

Document number BUI.MAD249.0167.1

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH****9**

5 A. "I've been shown a copy of the Christchurch Rapid Assessment Form –  
Level 1 form – with the CSR filing number of 1225552 noted on it. I can  
confirm the handwriting on this form is mine except for the words "CTV"  
and "219 Madras Street" (as well as the CSR filing number). I do not  
know who wrote the words "CTV" and "219 Madras Street" on this form.  
10 The only comment written on this assessment form refers to an  
overhead falling hazard from "glazing" and states "glazing if dislodged  
will fall into self-contained balcony." I do not recall conducting an  
assessment inspection of the CTV building although I do recall  
conducting assessments in the general vicinity. At the end of each  
block of assessments, all completed rapid assessment forms were  
15 handed to the Operations Centre administration team for their action."

**CROSS-EXAMINATION: MR RENNIE – NIL****CROSS-EXAMINATION: MS BRYANT – NIL****CROSS-EXAMINATION: MR ZARIFEH**

20 Q. Ms Holland I don't know if you were in the hearing last week –  
A. No.  
Q. – when some of the other building inspectors that inspected after  
September gave evidence but I asked them about their training they'd  
received. So prior to the 4<sup>th</sup> of September earthquake had you received  
any training in the rapid assessment process?  
25 A. No.  
Q. And did the training you receive consist of briefings, one or two of which  
you've mentioned in your brief?  
A. Yes.

- Q. Can you make any comment about your understanding of that rapid assessment process. Did you understand level 1 and level 2 and the distinctions?
- A. Yes I did.
- 5 Q. And the various placards and the distinction between them?
- A. Yes. ‘
- Q. And was that from the briefings that you attended?
- A. Yes it was.
- Q. Were you involved in level 2 assessments?
- 10 A. Only, um, as a scribe, so that was in the USAR team.
- Q. Right, so when you say “as a scribe” is that some lesser role or...?
- A. Sorry, um, no it was as a team member but we had engineers in the team so they are at the top of the ladder. They make the assessment.
- Q. That's another thing I want to ask you. When you went out in groups to do assessments did you always have an engineer with you?
- 15 A. Ah, no not every time.
- Q. Okay and would it be more often than not that you would have one or what was the –
- A. – the majority of the time we would have one.
- 20 Q. And how did it happen that you wouldn't?
- A. Ah, when we were conducting level 1 assessments we wouldn't have an engineer at all times because of sheer numbers.
- Q. Right, were you aware of any policy that said there was a preference to have an engineer at the inspection?
- 25 A. For level 1 assessment a team could be made up of building inspectors or other qualified people at that level.
- Q. Right but not necessarily engineers?
- A. No.
- Q. And for a level 2 what was your understanding?
- 30 A. That it was a thorough assessment internal and external and it did, if possible, include an engineer.
- Q. Okay, when you say “if possible” what were the exceptions?
- A. Well it would come down to sheer numbers.

Q. And were you aware of occasions when a level 2 was conducted without an engineer in the group?

A. Ah, my colleagues that you were talking about last week.

1505

5 Q. Right, any others?

A. Um, not specifically but...

Q. Well was that the only exception or were there others?

A. No, it wouldn't have been the only exception.

10 Q. And what kind of buildings would've been inspected by a group that didn't include an engineer for a level 2?

A. A level 2 it'd be, um, perhaps buildings below three levels or non-critical facility buildings.

Q. And who would make the decision that they could be inspected at level 2 without an engineer?

15 A. It would be made at, um, the headquarters.

Q. By whom?

A. The operations manager or in that team.

Q. And who was, was the operations manager Mr Buchan?

A. He was on the September one.

20 Q. And did that change in the February earthquake?

A. Yes it did, the February earthquake was, um, it was a national emergency and I'm sorry I can't remember who run it then.

Q. What about after Boxing Day, what was the position?

25 A. It was never declared a national emergency so, um, it was Council staff and other volunteers that turned up for that.

Q. And were there engineers in each group or not?

A. No, definitely not, no. There just wasn't the people around.

Q. And your assessment then on the 27<sup>th</sup> of December of the CTV building

–

30 A. Yes.

Q. – who else was with you?

- A. To the best of my knowledge I believe it was Glenn Mackel because I can remember doing other building's assessments in Bedford Row but I don't remember every specific building.
- Q. And he wasn't an engineer was he?
- 5 A. No he was a building inspector like myself.
- Q. Whose initials are those, the inspector then on the?
- A. That's, that's my initials.
- Q. Is it?
- A. Yes.
- 10 Q. And your signature as you said?
- A. Yes it is.
- Q. So were you the scribe in this one as well or –
- A. Ah...
- Q. – did you just happen to fill out the form?
- 15 A. I would've filled out the form, um, we used to take turns in teams.
- Q. Well you said that you're looking for obvious damage and –
- A. Yes.
- Q. – you can't recall the inspection now but you've recorded under minor or none and next to overhead falling hazard, "glazing"?
- 20 A. Yes.
- Q. Can you remember any more than that?
- A. No, I know that if that's what I put down that's what I would've seen.
- Q. So what, a broken window or something of that nature?
- A. Yes, yes.
- 25 Q. You can't remember where it was?
- A. No I don't, I don't recall actually doing the assessment on that building so...
- Q. We're going to have, or we've got some evidence of USAR reconnaissance report that was done on the same day?
- 30 A. Yes.
- Q. You might be aware of this, Mr Ayers is going to be taken as read but he refers to a two by one metre window on the second floor south face as broken and in danger of falling on carpark?

A. Yes.

Q. Does that help you with recalling which window?

A. I, I honestly can't remember doing the assessment on that building.

Q. The south face would be the Cashel Street side?

5 A. Yes it would be.

Q. So you can't help us any –

A. No I can't.

Q. – further on that? Now you would complete the level 1 form and it would as you said go back to the Council office?

10 A. Yes.

Q. And for being, for processing and entering into their records?

A. Yes.

Q. And would you not expect that there would be a record that you had conducted a level 1 assessment and green placard of the building would be, that would be recorded in the Council system?

15

A. I believe so.

Q. Why I ask is we're going to hear from a witness in a moment who says that she rang the Council on the 5<sup>th</sup> of January 2011 and was told that the Council were only doing rapid assessments on buildings inside the cordon. She rang in relation to CTV, but by then of course you would've completed and put your green placard on that building wouldn't you?

20

A. Ah, yes.

Q. You can't explain why it might not have got into the record?

A. Well I know there was minimal staff around.

25 Q. In terms of processing –

A. Yes.

Q. – inspections that had been done?

A. Yes. It could've been for that reason, I can't give you any other answer.

Q. Were you aware of other buildings having been inspected where the records weren't updated or it wasn't recorded on the building?

30

A. No I've got no knowledge of that. When we finished the assessments that was, ah, we didn't have any input into inputting those into the system.

**CROSS-EXAMINATION: MR ELLIOTT – NIL**

**CROSS-EXAMINATION: MR RENNIE – NIL**

**QUESTIONS FROM THE COMMISSIONERS FENWICK AND COOPER- NIL**

**5 JUSTICE COOPER:**

Q. Just that form that's now disappeared has 219 Madras on it?

A. Yes.

Q. That's just a mistake is it?

A. Well I, I didn't write the CTV or 219 Madras Street on that form so...

**10 Q.** You're clear that this is the form that relates to the building?

A. All that, um, there could be two reasons why that was. We were given blocks of buildings to assess on that day or sometimes we were given a form or forms already filled out, "Go and check these specific buildings," so I can only believe it's one of two of those options.

**15 WITNESS EXCUSED**

**MR ZARIFEH:**

Sir I've already referred to the brief of Mr Andy Ayers which is to be taken as read and I've perhaps referred to the only real relevant evidence from that about the broken window that was found so I don't know if Your Honour wants  
5 that read?

**JUSTICE COOPER:**

What tab is it?

10 **MR ZARIFEH:**

It is on tab 12 Sir.

**JUSTICE COOPER:**

I think it would be good if it was read actually.

15

**BRIEF OF EVIDENCE OF ANDREW WILLIAM AYERS READ BY  
CONSENT**

**MR ZARIFEH:**

20 My full name is Andrew William Ayers. I live in Christchurch. I have been employed as a fire fighter by the New Zealand Fire Service since 2001. I am presently a qualified fire fighter driver at the Christchurch Central Fire Station, a position I have held since approximately 2003. Prior to becoming a fire fighter I worked as a trade certified carpenter for about 10 years.  
25 Approximately 2003 I joined Urban Search And Rescue. I hold the position of team leader in taskforce 2 based in Christchurch. As a member of the New Zealand Fire Service and USAR I have been involved in the response to several natural disasters including the Greymouth tornados in 2005 and the September 2010, December 2010, February 2011 and June 2011 Canterbury  
30 earthquakes. I've been asked to give evidence to assist the Royal Commission with its inquiry in relation to the CTV building on Madras Street in my role with the building after the Boxing Day earthquake.

On 26 December 2010 I was on duty with the Fire Service when the earthquake struck and my appliance responded by heading into the city. Most people were evacuating or leaving the city. We did what we could to assist and attend multiple alarms activations. There was a lot less damage in the central business district than I had seen following the September earthquake.

5 On 27 December 2010 I was instructed to join TF2 at the base in Woolston. Paul Burns of New Zealand Fire Service and USAR and one of the USAR engineers provided the task of briefing and told us that USAR assistance had been requested. I do not recall who had requested our assistance but I

10 remember that it was because most people were away and on holiday at the time. We were tasked to undertake a rapid visual survey from street level of damage to buildings to check for any obvious signs of immediate danger to the public. We were given USAR damage building reconnaissance report forms to fill out. We were told not to worry about whether damage looked old

15 or new. The criteria we used to assess buildings on 27 December 2010 was very different to the sort of criteria that I imagine a structural engineer might use. We were only concerned with issues of immediate public safety such as buildings that were in an obvious risk of collapse or where materials had or were falling off and were posing a risk to people or property. If we saw

20 anything that looked serious we would phone up the TF2 engineers and request their assistance. In relation to the CTV building my colleagues and I completed a visual survey of the building from each direction. This included the alley between the CTV building and the Arrow International building. I noticed that there was glass on the ground which had come from the Arrow

25 building. We also went up the alley between the Arrow building and the AA building. The older building next to the new Les Mills had many bricks that had fallen down, as did the back of the Occidental Hotel on Hereford Street. We spent quite some time blocking off public access to the areas around these buildings. It is likely that we noted on those report forms that an

30 engineer's assessment was required. From all angles the CTV building looked fine to me and did not appear to pose an immediate danger to the public. There was no obvious structural damage, obvious cracking in the columns and no tell-tale signs on the ground, for example spalled concrete.

The only damage I observed was one broken window and pieces of glass which had fallen out onto cars in the car park below. We applied temporary hazard tape around the area beneath the broken window. I noted my observations on the report from for the CTV building. I estimated that the overall damage visible from the street was 0 to 1%. Based on what I saw I did not consider that an engineering assessment was required. When we had finished our surveys, we would have taken the completed forms back to Woolston base. I cannot recall whether I gave the form to anyone in particular. I was not involved in the CTV building again prior to 22 February 2011 or after the building collapsed.

1515

**MR ZARIFEH CALLS****JO-ANN BERNICE VIVIAN (SWORN)**

Q. Ms Vivian, is your full name Jo-Ann Bernice Vivian?

A. It is.

5 Q. You reside in Wellington?

A. I do.

Q. And are you currently employed with Relationships Aotearoa previously Relationship Services?

A. Yes.

10 Q. You have got in front of you I think a signed brief of evidence?

A. I have.

Q. Can I ask you please to read that starting from paragraph 2?

A. I joined Relationship Services in February 1998. I worked as a counsellor and clinical leader in the Christchurch office of Relationship Services until 2005. Since 2005 I have worked at the national practice manager based in Relationship Services National Office in Wellington. My role includes clinical oversight of the Canterbury area and direct line management of the Canterbury Clinical Leader. As part of this role I made frequent visits to the Christchurch office. At the time of the  
15  
20  
22<sup>nd</sup> of February 2011 earthquake Relationship Services occupied half of the fifth floor, level 6 of the CTV building.

4 September. I was not in Christchurch for the 4<sup>th</sup> September earthquake so did not see the damage firsthand. However, I had been informed that our building was not accessible over the weekend due to road closures and being inside the cordon. On 5<sup>th</sup> of September 2010 I received an email from Moira Underdown the area manager saying that the office would not be able to be accessed until Monday morning at the earliest. She said that there was damage across the road but she was  
25  
30  
not sure about our building.

Q. That will just come up now, email.

**WITNESS REFERRED TO EMAIL BUI.MAD249.0094B.1**

Q. Is that the email you received?

A. Yes it is.

Q. Thank you, carry on?

5 A. On 6<sup>th</sup> of September 2010 Moira sent another email saying that she and others were in the building tidying up and that the building had a green sticker.

Q. And that will come up.

**WITNESS REFERRED TO BUI.MAD249.0094B.2**

10 Q. And does it refer to the green sticker on the second line, "We are in the office today tidying up and sorting out as our building has a green sticker meaning that it is fully operational," correct?

A. Yes correct.

Q. Thank you, carry on.

15 A. I understood from speaking to Moira and Pablo Godoy the clinical leader that the filing cabinets had fallen over, shelves had fallen down and there were files all over the floor. There was no mention of any damage to the building itself that I can recall.

20 Boxing Day. The office was closed over the Christmas break but we had a skeleton staff clearing phones, responding to client requests for appointments. One of our administrators, Judi Smitheram had tried to go into the building after Boxing Day to change some appointments but was unable to open the door to the administration area due to filing cabinets blocking the door. I was on holiday in Christchurch at the time and heard about this so I offered to go into the building with my husband

25 to pick up the cabinets and to assess any other damage. I arranged with another administrator Nina Bishop to collect the keys from her home. I visited the building with my husband Mark Vivian on Sunday 2<sup>nd</sup> of January 2011 and was shocked at the extent of the mess. Most of the filing cabinets had fallen over. Shelving had emptied onto the

30 floor and some pictures and ornaments had broken. I decided to arrange a cleaning group for the next day so the offices would be suitable for opening on 4<sup>th</sup> of January. Pablo Godoy also went in later that day and lifted the heavier filing cabinets back up. I went back to the

office the next day with a small group of friends and family. We did a general clean up and picked up several large filing cabinets that had fallen in a southerly direction towards Cashel Street emptying their contents onto the floor in the process. I took a number of photos for insurance purposes. They are attached.

5

Q. I will just get or they are brought up there, there is the first page.

**WITNESS REFERRED TO BUI.MAD249.0382**

Q. You see those?

A. Yes.

10

Q. Do they record the items that have been disrupted?

A. They recorded a partial event. The photos were taken when I went back the second day and at that stage Pablo had already lifted up the heavy filing cabinets and in doing so you know he had tidied up a little bit of the mess that was on the floor.

15

Q. All right and I will get the second page, .12 brought up.

A. Correct.

Q. All right thank you, carry on please?

A. This is attached to my statement and marked A. The positions, oh, sorry, I have marked on a floor plan of the building where each photo was taken. This is attached to my statement and marked A.

20

Q. And we can just get that brought up?

A. Yes.

Q. And so P1 et cetera, refers to a photo?

A. Yes.

25

Q. And the photos that you have just referred to and shows which room the photo was taken in?

A. Yes they do.

Q. Thank you.

A. The positions of the rooms and internal walls have not been drawn to scale in their placement is approximate only. On the 3<sup>rd</sup> of January I sent two emails updating staff of the damage and the clean up.

30

Q. We will get those brought up.

**WITNESS REFERRED TO EMAIL BUI.MAD249.0094B.3 AND 4**

Q. That is the first one?

A. Yes it is.

Q. And in the second paragraph do you refer to the – you say the pillars on the fifth floor lobby are cracked, new damage and there is no evidence  
5 the building has been inspected, so I suggest a call is made to the Council in the morning for that to happen?

A. Yes.

Q. All right, carry on I will come back to that damage in a moment. Look at 14, this other email, is that the other email you sent?

10 A. Yes it is, the first one was to the managers and the second one is to the general staff.

Q. And the last, second to last line, you say, “Jeff and I will arrange for the Council to do an inspect of the building.”?

A. Correct.

15 Q. So that was on 3 January?

A. Correct, that was when I was in the building.

Q. Can you carry on please to paragraph 13?

A. When I collected the keys from Nina she and I talked about how lucky it was that she had not been in the office at the time because the cabinets  
20 had also fallen across the desk where she usually worked.

Q. Just take your time, 14?

A. When I went into the building with my husband on 2<sup>nd</sup> January I had noticed some very visible cracks in the column outside the lift on the Madras Street wall of the lobby. The column was half inside and half  
25 outside of the building on that wall so I was concerned that the cracks might indicate structural damage. I have marked the location of this column as, “1” on the floor plan.

Q. We will just get the floor plan brought up please.

**WITNESS REFERRED TO FLOOR PLAN**

30 Q. So if we can just get the north core of the portion on the right enlarged please. So the 1 is marked with an “X” as well?

A. Yes it is.

Q. Now as you came out of the lift, as you walked out of the lift on the eastern side?

A. Yes.

5 Q. So the lower one in that diagram, the column that you have indicated will be on your left?

A. Correct.

Q. And if you walk beyond the column that line, what is that signifying?

A. That's the partition, the other part of the building was vacant at that time.

1525

10 Q. Right.

A. And along that wall was a – well it used to be a sign that had the signage of who they were.

Q. So the line, the partition went not necessarily to scale but where you've indicated on your plan in a southerly direction, then went westward?

15 A. Yes it did and directly opposite the lifts were the doors into that vacant area of the office.

Q. Now just carry on back to your brief please, the cracks.

20 A. The cracks were in a spiral pattern and some of them appeared to go right around the column to the outside. They were approximately one centimetre in width and one to 1.5 metre in length. They were wide enough to concern me, however it didn't look like the column was about to fall down either. I believe that the column was painted dark red, I now know it wasn't and you could clearly see the plaster underneath. I had not remembered seeing this damage on any of my previous visits to the building. It looked like it went beneath the paint layer into the structure of the column which made me think it needed checking further.

25 Q. Okay, and just read 15 and then I'll come back to some photos.

30 A. My husband Mark also commented to me about cracks around the lift well doors. I remember the conversation about the cracks but neither Mark nor I recall exactly where they were.

Q. Now I'll just get a photo brought up, and this is a WIT.COATSWORTH.0001H.34. This is a photo that was taken 29 September 2010 of that column.

A. Yes.

Q. And now just so we get our bearings because we looked at this the other day and think might have been Commissioner Carter raised an issue about querying whether that showed the correct floor, the partition  
5 that you just mentioned extending beyond the –

A. Mhm.

Q. – column, can we see that to the right of the photo?

A. Yes you can, and to the left was the windows of the meeting room on that floor.

10 Q. So to the left of the column is the window that was adjacent to the column?

A. Correct.

Q. And in that photo we're looking through the window to the part of the building that went towards the east?

15 A. Yes, yes and I'm familiar with the room because I've had meetings in there in the past.

Q. So that shows the column that you saw, and saw the damage to that day?

A. Yes, yes it is.

20 Q. Or part of it anyway.

A. Yes.

Q. Can you make any comment about the cracks there compared to the ones that you recall seeing?

A. My sense is that the cracks that I saw were bigger and longer.

25 Q. I'll show you another photo, WIT.PAGAN.0001.44. This is the first of two photos I'm going to show you that were taken on the same day, the 29<sup>th</sup> of September and not a very good photo, the bottom right is it.

A. So the bottom right is –

Q. The bottom right.

30 A. I'm assuming is the same column.

Q. Yes.

A. The wall, the partition I was talking about is behind it and the doorway entrance I mentioned.

Q. We can see that in that photo can't we?

A. You can see that now in the photo.

Q. And that's the next photo of the two, same day, if you go back to that one please, 45. All right, that's probably not very clear on your screen  
5 are they?

A. It's a clear photo, I don't know which column it is.

Q. All right, so again in terms of the damage you saw to the column we're talking about.

A. Yes.

10 Q. What can you say?

A. With the column in the bottom left photo I don't believe is the same column as the one in the right-hand photo, it's a different –

Q. No, no, they're four different photos.

A. They are, yes okay.

15 Q. We're talking about the bottom right.

A. So the bottom right, I would say that the cracks I saw were more extensive than that. They were the kind of cracks you walked out of the lift and they just hit you in the face and the staff who saw them and the family and friends who were with me on the day of the clean up, all  
20 commented on them. They looked worrying.

Q. All right, I should just correct something, the photo, if we go back to it, the H34, the previous one before these two, WIT.COATSWORTH.0001H.34 sorry. That was actually taken  
25 19 October 2010, but obviously before you saw it and I'll just get you to have a look at one more photo please, BUI.MAD249.0454. Right now unfortunately someone's drawn on the photograph.

A. Mhm.

Q. But you'll see the column that you're talking about firstly in the left-hand photo.

30 A. Yes.

Q. Now can you make any comment about the cracking shown there?

A. No, just that it's the same pillar.

Q. Okay, because that photo was taken in February some time, February 2011, so presumably after you – 14 February, presumably after you saw it. Does that reflect the kind of cracking that you saw leaving aside the fact it's been drawn on?

5 A. I guess, the short answer is yes, remembering that I saw the column. It worried me enough to ring the Council and get an inspection done. When I made my statement we're talking many, many months later so it's a visual recall of conversations that we had at the time.

Q. Understand.

10 A. But certainly the right-hand photo where the crack moves down I remember them being on an angle.

Q. Just use your mouse –

A. I'm sorry.

Q. You haven't got a mouse, which crack –

15 A. The right-hand photo, well actually they're both, the top crack on the left, the one going down on an angle, I just remembered that they were on an angle and they were sufficient for me to be worried.

Q. Did you see, you can see damage in that right-hand photo to the ceiling area. Do you recall seeing any damage to that area or not?

20 A. I don't, I subsequently, those of us who were there on the day talked about cracks in the building and around the lift. My main focus was actually looking through our own offices.

**COMMISSION ADJOURNS: 3.34 PM**

**COMMISSION RESUMES: 3.51 PM**

25 **EXAMINATION CONTINUES: MR ZARIFEH**

Q. Ms Vivian, you were at paragraph 16, carry on please?

**WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 16**

30 A. “[Audio not recorded] ...the columns in our offices did not have cracks on them. I do not recall there being a sticker on the building on my visits

to the building on 2<sup>nd</sup> and 3<sup>rd</sup> January 2011. I found this strange because I knew there had been one following the 4 September 2010 earthquake. I had heard on the news about the building assessments that were available to essential services and thought a rapid assessment should be carried out on our building because of the damage I had seen and the fact that we were a health and social service due to open for business the following day.”

5

Q. Can I just ask you, you would have heard the evidence of Ms Holland?

A. Mmm.

10

Q. She green placarded the building on 27 December?

A. Mmm.

Q. Where did you look in relation to the front of the building?

A. I would have come in the main entrance. There were, there was an entrance to the CTV office on the corner of the building and then there was the main lobby that had sliding glass doors that came up to the lifts.

15

Q. And you didn't see a green placard?

A. No I don't remember seeing one.

Q. Right, paragraph 18?

**WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM  
PARAGRAPH 18**

20

A. “On 5<sup>th</sup> January 2011 I rang the urgent inspections team at the Christchurch City Council and requested a rapid assessment. They told me the council were only doing rapid assessments on buildings inside the cordon. I replied that we were on the edge of the cordon and that we had previously been included in inspections. Given the nature of our services the council agreed to undertake a rapid assessment.”

25

Q. When you rang you said you requested a rapid assessment. Did you know that terminology?

A. I rang and spoke to someone, the receptionist, and told them where I was and what I wanted and they said they'd put me through to the rapid assessment team.

30

Q. Okay and you weren't told that there had in fact been a rapid assessment on 27 December following the Boxing Day aftershock?

A. No I wasn't.

Q. Okay, 19?

**WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 19**

5 A. "I emailed relevant Relationship Services managers to advise that I had notified the council of the damage to the column on our floor and I understood they would send someone to inspect the building."

Q. And we will just get that brought up, .15, that's the email?

A. Yes it is.

10 Q. Thank you.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "I am advised by counsel assisting the Commission that the Council also has a written record of my phone call."

Q. Right and you probably saw that referred to earlier?

15 A. I did.

Q. Did you, and you confirm that that was the gist of your call?

A. Absolutely.

Q. Right, thank you, 20?

**WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 20**

20 A. "On either 6<sup>th</sup> or 7<sup>th</sup> of January 2011 I rang the CTV building manager, John Drew, to let him know I had arranged for the council to do a rapid assessment of the building. He told me that an engineer had been through the building after the September earthquake and again after the  
25 Boxing Day earthquake. I remember feeling a sense of relief that had occurred and was also a little embarrassed I had contacted the council before checking with him. I told him I was concerned about the cracks I had seen in the column on the 5<sup>th</sup> floor. He told me he knew exactly which cracks I was talking about and that he and the engineer had  
30 discussed them and that he could reassure me that the building was structurally sound and safe to occupy. He said he would not put his tenants at risk and wanted to assure me he was proactive in getting the building checked. He reassured me that the cracks I had seen were

superficial and did not affect the structure of the building. He said they would be repaired with some kind of plastic filling. I remember being reassured about the level of detail discussed and how committed John Drew was to the building and its tenants. I believed that he took his role as building manager very seriously. I informed John about my call with the council and suggested he might like to contact them to tell them he had had the building inspected and to advise them that a rapid assessment was no longer necessary. He said, as I had made the original request it was best that I contact them and I agreed to do this. I had heard from other Christchurch staff that John Drew was very proactive in caring for the building. I had seen for myself some of the building improvements he had made since he had been in charge. My conversation with him after Boxing Day was the first direct contact I had had with him but I ended the phone call satisfied that he was taking his role seriously. I trusted what he had told me. For that reason I didn't ask to see any report prepared by the engineer who had inspected the building after Boxing Day. When I rang the council I told them that I'd been informed that the bldg had been checked by the building manager's engineer, that the building was okay and an inspection was no longer required. I'm advised by counsel assisting that the Council also made a record of this phone call."

Q. We'll just get that brought up. So you can see I think that's the continuation of your previous message at the top there?

A. Yes it is.

25 Q. Right, and if you look in the body of the event record, under 'details' –

A. Mhm.

Q. – "Jo-Ann has stated that landlord has had check by structural engineer and all okay."

A. Correct.

30 Q. So that's the gist of what you would have conveyed to the council?

A. Absolutely.

Q. You see the reference to Paul Campbell 6/1/11, did you have any contact with anyone by that name at the council or anyone at that time?

A. I, I, no. I made two calls, I made one to ask for the inspection and one to have it removed.

Q. So –

A. I don't know who I spoke to.

5 Q. All right, but you don't recall that name?

A. No I don't.

Q. Now you've, I think you were in the hearing, you heard Mr Drew give evidence -

A. I did.

10 Q. - this morning? He has a different recollection in what he can remember of that conversation, correct?

A. He does.

Q. So firstly he, well he did not get the building inspected by an engineer after the Boxing Day earthquake, that's clear?

15 A. Mmm.

Q. And he essentially says that he would not have conveyed that because he hadn't done that, so what do you say to that?

A. Well I'm a senior manager for Relationship Services. I was really concerned about the damage that I had seen in the building after  
20 Boxing Day. I took it as my responsibility to make sure that the building was safe for our workers and for our clients. I rang him to tell him about the inspection. We had quite a long conversation and he used words like, having his, being committed to the building, that he had his own engineer who had been through the building more than once and that he  
25 had had someone in it since Boxing Day. You know if he hadn't told me that I wouldn't have withdrawn the inspection.

Q. Okay, do you think there is any possibility that he might have told you obviously about getting the engineer through and perhaps more than once and you presumed he was talking about post-Boxing Day as well?

30 A. It is within the realms of possibility. It's not how I remember the call. I distinctly remember being told that he knew about the new cracks that I was referring to because the staff had alerted me that the cracks in the

column were new and they were new from Boxing Day, and the Boxing Day event was very significant.

Q. The cracks, there were cracks in that column though before Boxing Day?

5 A. Correct.

Q. That seems clear?

A. Yes.

Q. Well the other possibility that was explored with Mr Drew was and I think he had suggested might be the case, I think to be fair to him he said he wasn't entirely, his recollection wasn't that good of the conversation but that he might have been referring to inspection by the council engineers after Boxing Day, he being told it had been green stickered?

10

A. Mmm.

Q. Did he ever say anything of that nature to you?

15 A. I don't recall anything to that nature. I don't recall him mentioning a green sticker. I remember saying to him that I didn't believe the building had been inspected and that was why I was requesting the inspection –

Q. Right, and in fact –

A. – and I also talked about the widened cracks and it sounded to me like he knew about that extension of the damage.

20

Q. Right, and in fact I think he said that he recalled you saying that Council had told you it wasn't on their list, something like that? Is that something that you told him?

A. That was in terms of not being on the list in terms of within the cordon, correct.

25

Q. Yes.

A. And so I had requested an inspection.

Q. Right, so that would seem to confirm your, that you weren't told that it had been inspected?

30 A. Correct.

1601

Q. All right so can I take you back to your brief please, paragraph 26.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH  
26**

5 A. “In discussions with staff over the following weeks I was aware of some  
concern about cracks, the movement of the building in aftershocks and  
effect of the demolition next door. On several occasions I told our staff  
that the building had been inspected and was safe to work in. I based  
10 this statement on the conversation with John Drew and the fact the  
building did not have a red or yellow sticker on it. After the building  
collapsed I emailed Jeff Sanders the Chief Executive of Relationship  
Services on 1 March 2011 recalling my memory of my contact with the  
Council. In that email I said, “I rang the Christchurch City Council on the  
3<sup>rd</sup> of January and given we’re a service provider and were due to open  
the next day was transferred through to the team doing urgent  
15 inspections. They did not have the building on their list but took my cell  
number and said they would contact me. On the 4<sup>th</sup> of January I made  
contact with the CTV landlord (John) and informed him about the call  
with the Council. He told me he had already had the building inspected  
by how own engineers and that the cracks we were seeing were  
superficial and did not affect the safety and structure. He mentioned  
20 some kind of plastic filling that would be used to fill the cracks in the  
columns. We agreed I would notify the Council that he had already had  
the building checked. I did this and understood from the call that they  
would probably take it off their list for inspection. I notified the Chief  
Executive and the local staff of this call.”

25 **EXAMINATION CONTINUES: MR ZARIFEH**

Q. I will just get you to pause there. Now this email that you’re reading out  
from that’s 1 March so about just under two months after the  
conversation you would have had with Mr Drew?

A. Correct.

30 Q. And in the second paragraph that you referred to in your brief you say  
there, second sentence, “He told me he had already had the building  
inspected by his own engineers and that the cracks we were seeing

were superficial, did not affect the safety and structure.” There’s no reference there in your recounting then to him saying he’d had it inspected after Boxing Day or in fact after September. You don’t specify?

5 A. No.

Q. Is that correct what you’ve put there in terms of what you were told?

A. I’d like to put the email in context. So this is 1 March, not long after the building had collapsed and we were dealing with the aftermath of that collapse.

10 Q. I understand that.

A. In writing the email what I was wanting to document was some of the actions that I had taken. In my mind I was referring to the inspection after the Boxing Day damage because that’s what my previous emails had alluded to, um, in hindsight you can always make things clearer but I’m very clear that that was what I meant in the email.

15

Q. And that was what was said?

A. Correct.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH  
28**

20 A. “On 28 June 2010 Chris Cooke from the TVNZ Sunday programme approached Relationship Services. He informed us he had learned through an Official Information Act request that a Relationship Services representative had requested an inspection by the Council, but did not know my name. He informed our Communications Manager, Debbie  
25 Hannan, that John Drew had denied telling me that an engineer had inspected the building after the Boxing Day earthquake. I was shocked at this news as I’m very clear that John Drew had told me the building was inspected after Boxing Day. The only reason I withdrew the request for an inspection was because of my understanding that the  
30 new cracks had been inspected since Boxing Day. If he had told me the inspection had occurred after September 2010 I would not have agreed to withdraw my request.”

**CROSS-EXAMINATION: ALL COUNSEL - NIL****QUESTIONS FROM COMMISSIONER FENWICK:**

- Q. In s 14 you refer to the cracks as being one centimetre wide and one to one point five metres in length?
- 5 A. Yes.
- Q. Was this in the plaster or how far did those cracks extend. Could I have stuck my pencil, blunt end first, into the cracks and how far would it have gone?
- A. Um,
- 10 Q. What one centimetre wide would enable me to put my pencil in?
- A. Yes I would think you could have in some of them.
- Q. It was just through the plaster was it or was it right into the concrete or are you not...?
- A. They were solid, I guess solid, I don't know which bit is plaster and
- 15 which bit is concrete. They seem to me to be going significantly into the body of the pillar. I'm familiar with very superficial cracks and they looked a little more than that.

**QUESTIONS FROM COMMISSIONER CARTER- NIL****QUESTIONS FROM JUSTICE COOPER – NIL**

20 **WITNESS EXCUSED**

**MR ZARIFEH CALLS****GRAEME SMITH (SWORN)**

Q. Is your full name Graeme Robert Smith?

A. It is.

5 Q. You live in Christchurch?

A. I do.

Q. And you operate a business called Concrete Protection and Repair Limited based here in Christchurch?

A. I do.

10 Q. You've got a brief of evidence that you've signed?

A. Yes.

**WITNESS READS BRIEF OF EVIDENCE COMMENCING AT PARAGRAPH  
2**

15 A. " I am a qualified Civil Engineer, having graduated from the University of Canterbury in 1994. Since that date I have worked in the concrete repair industry. After 4 September 2010 earthquake Concrete Protection and Repair was heavily involved in carrying out inspections and preparing estimates of costs of repairing cracks in concrete buildings caused as a result of the earthquake. We were instructed to  
20 prepare an estimate in relation to the CTV building following the inspection and report of David Coatsworth of CPG Limited. We were provided with a copy of Mr Coatsworth's report by the CTV Building Manager, John Drew. I made three visits to the CTV building in early 2011. I recall that on my first visit I inspected the two shear walls of the  
25 building from the outside, namely the north shear wall (North Core) and the wall to the south of the building (South Coupled Shear Wall). I could see no cracking in the exterior side of the walls. The exterior walls were covered by a textured coating. On my second visit to the CTV building I met with John Drew and looked at both the outside and the inside of the  
30 building. My third visit was specifically to look at the inside of the lift shafts and the two lifts inside the building were stopped so that I could do this. The instructions that Concrete Protection and Repair received from John Drew were to quote on crack injections into the shear walls,

the columns and facing panels, concrete repair to the south facing panels and siloxane exterior waterproofing to the southern and northern shear walls as identified in the CPG report. I do not recall receiving any additional verbal instructions from Mr Drew. As a general comment, the cracking that I observed in the CTV building and which I will discuss shortly was, in my experience, unremarkable and did not give me cause for concern. I can think of another building where the cracking did concern me and I advised the owner to contact a structural engineer. I can also say that the damage I observed in the CTV building was consistent with and did not appear to go beyond what was identified by Mr Coatsworth in the CPG report, namely fine hairline cracks. I recall on my second visit looking inside looking at the vertical crack in the plasterboard which was covering the Southern Coupled Shear Wall and which ran from the ground floor through to the floor above. I did not see this crack on the outside of the building. However, the exterior of both the South and North Shear Walls were covered with textured coating which meant that it was very difficult to see any cracking from the outside. I did not inspect whether this crack continued into the higher floors as this was not referred to in the CPG report. I could not access the outside of the South Coupled Shear Wall via the fire escape any higher than the first floor (Level 2) due to a locked gate blocking access to any higher levels. I recall that when I was looking at this crack I was behind the reception area for CTV on the ground floor and the room I was in had a lot of routers, servers and post production electronic equipment in it. The first floor room above this was someone's office. I needed to go behind a desk to observe the crack. I did not see the diagonal cracking that Mr Coatsworth referred to at the base of the South Coupled Shear Wall in his report and accompanying photograph.

1611

30 Like the south coupled shear wall, the north core was coated with a textured finish that meant it was very difficult to see any cracking from an outside inspection. On my second visit to the CTV building I inspected the stairwell of each level. The cracking I observed there was

consistent with what Mr Coatsworth's had recorded in his report. I do not remember seeing any cracking in the toilets. I remember looking closely at the cracking by the stairs because I was concerned that I had to remove the bulkhead under the stairs in order to repair the cracking on the wall adjacent to where the lifts were. It is for that reason and to view any cracking from the inside of the north core where the two lift cars were that I asked John Drew to arrange for the lifts to be stopped so I could get into that area. The lifts were stopped and I was able to get inside the lift shaft in that area. I noticed horizontal and vertical cracking. There was horizontal cracking at each level of the approximate location of the construction joint of each floor. There was also cracking about half way up each floor which appeared to correspond with the landings for the stairs and the adjacent stairwell. Both types of horizontal crackings were present the full height of the western and northern walls of the lift area of the north core but not in the eastern wall. There were two vertical cracks that ran the length of the lift shaft. One was approximately one metre from the western side of the lift shaft and the second was approximately 1.5 metres from the western side of the lift shaft. Both were in the range of 0.2 to 0.5 millimetres wide. I recall that this vertical cracking was just in the north core of the north, the northern wall of the north core. None of the cracks that I referred to in the north core had any spalling."

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Q. I'll just get you to pause there. Am I correct in saying that the horizontal cracking that you saw in the lift shaft corresponded to cracking that Mr Coatsworth had indicated in his report that he had seen in the stairwell area?

A. He simply said if I remember there was only cracking in the lift shaft and I assumed that what I saw related what he talked about in his report.

30

Q. You assumed that the cracking the horizontal cracking you saw in the lift shaft corresponded to the cracking he'd seen in the stairwell?

A. Yes.

Q. Yes and the vertical cracks that you saw in the lift shaft were not in the Coatsworth report, correct?

A. No.

Q. All right. I just want to ask you a bit more about those, and perhaps if I get brought up on the screen firstly a birds' eye view of the layout and BUI.MAD249.0284.46 might be one we could use, I think this is the architectural plans.

5

**WITNESS REFERRED TO ARCHITECTURAL PLANS**

Q. So if we can get the north core on the left-hand side expanded please. All right you can see the two lifts?

A. Yes.

10 Q. Now just using the mouse that's in front of you, can you indicate where the two vertical cracks were that you saw?

A. The first one was about there.

Q. Right and –

A. And that ran the length, the height of the lift shaft and the next one was about there.

15

Q. All right and you've referred to it as being the first one as being approximately a metre from the western side of the lift shaft?

A. Yep.

Q. So just indicate the western side of the lift shaft?

20 A. I call this the western side of the lift shaft.

Q. Okay. So a metre in from that?

A. Yep.

Q. Was the first one and 1.5 in from the western side was the next one?

A. Yes.

25 Q. And they ran the length of the height of the building rather –

A. Yes.

Q. – on that north wall?

A. Yep.

**JUSTICE COOPER:**

30 Q. So the second one's approximately in the position of the midpoint of the word lift if were extended out to the north wall?

A. Yep. Yes.

**EXAMINATION CONTINUES: MR ZARIFEH**

- Q. Now did you look on the outside of the north of the shear wall?
- A. Only from the ground.
- Q. Right and could you see those two cracks that you –
- 5 A. No there's a texture coating on there, you couldn't see anything.
- Q. Okay.
- A. You couldn't see the horizontal cracks from the ground floor that were in the report either that you could inside the stairs.
- Q. Right. When you saw those two cracks as you've said, they weren't in
- 10 the Coatsworth report were they?
- A. No.
- Q. Did they concern you at all?
- A. No.
- Q. Why is that?
- 15 A. One, I had seen a lot of cracking since then that was a lot wider and they were very fine, and then secondly because I knew that the building roughly its age, being of modern design.

**JUSTICE COOPER:**

- Q. You said you'd seen a lot of cracking since then?
- 20 A. No before, before that.
- Q. Before?
- A. Yes. And being a modern building I expected it to have plenty of capacity anyway and to be safe.

**EXAMINATION CONTINUES: MR ZARIFEH**

- 25 Q. All right, did you think of, or did you think of mentioning it to Mr Drew or to Mr Coatsworth?
- A. No.
- Q. For the reasons you've just explained?
- A. Yes.
- 30 Q. All right. Can you go back to your report please and, or your brief and read from 22.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "I did look at the beam column joints in the building where they were not covered by internal linings. I also looked at the columns referred to in the CPG report. I did not look at the block work on the western wall as this did not require crack injection treatment. I had understood that I would be returning to the building a fourth time once the painters had started their work on the outside of the building so that I could have a look at exterior columns of the building on higher floors. However, I was never contacted to advise that this could occur and I do not believe that the painting had started prior to the 22<sup>nd</sup> of February 2011. I have heard nothing further from Mr Drew – sorry, having heard nothing further from Mr Drew we prepared an estimate for repairs which was dated the 22<sup>nd</sup> of February 2011."

Q. And we'll just get that brought up, thanks.

**15 WITNESS REFERRED TO ESTIMATE DOCUMENT**

Q. Is that the estimate you're talking about?

A. Yes.

Q. And the next page? Thank you. Now I didn't get you to refer to, you referred to a photo of the, Mr Coatsworth took of the southern shear wall and I'll just get that brought up, please. It's WIT.COATSWORTH.0001D.11 thank you.

**WITNESS REFERRED TO PHOTOGRAPH**

Q. That was the Coatsworth photo that you referred to when you said that you did not see the diagonal cracking in the southern shear wall?

25 A. No.

Q. All right. Thank you and you said paragraph 22 that you did look at the beam column joints in the building where these were not covered by internal linings?

A. Yes.

30 Q. Was that in the first level or ground floor?

A. Ground floor.

Q. And did you make any obs- do you recall any observations of those?

A. Only that they were exactly as the report was.

Q. Okay. So you didn't see any cracking or damage?

A. No.

**CROSS-EXAMINATION: ALL COUNSEL – NIL**

**QUESTIONS FROM THE COMMISSIONERS FENWICK AND COOPER- NIL**

**5 QUESTIONS FROM JUSTICE COOPER- NIL**

**WITNESS EXCUSED**

**MR ZARIFEH CALLS****PETER ROBERT HIGGINS (SWORN)**

Q. Mr Higgins is your full name Peter Robert Higgins?

A. Yes.

5 Q. You live here in Christchurch and are you the southern regional manager for Construction Techniques Limited?

A. That's correct.

Q. You've got a brief of your evidence signed by you in front of you?

A. Correct.

10 Q. Can I ask you to please read that starting at paragraph 2.

**WITNESS READS BRIEF OF EVIDENCE FROM PARAGRAPH 2**

1621

A. Construction Techniques Limited was contacted by John Drew, the CTV Building Manager in early 2011 and requested to provide an estimate of  
15 costs to repair cracking in various elements of the building. I made two visits to the CTV Building in February 2011. Just a clarification, reference to levels in this statement are consistent with those adopted by the Royal Commission and they are of appended correspondence relate to the convention applicable at the time of inspection thus level 5  
20 was previously referred to as the fourth floor. The first visit was on 8<sup>th</sup> of February 2011. I met John Drew at his office on level 5, fourth floor of the CTV Building at 1.00 pm. Prior to that meeting I had not received any reports or other information about the building. We went to the north end of the building where the shear core was and Mr Drew  
25 showed me typical crack damage in the stairwell at the north end of the building and the level 5 bathroom end wall at the north end of the building. We also went up to level 6, fifth floor and Mr Drew pointed out the cracked column and beam outside the lift doors facing Madras Street. We then returned to Mr Drew's office and Mr Drew told  
30 me during that first visit that a structural engineer had visited the building and at the completion of this first visit and while I was still in his office he located the report by David Coatsworth of CPG dated 6 October 2010 and emailed me a copy for future reference. Because I

hadn't seen the CPG report prior to my first visit to the CTV building, my inspection at that time could only be preliminary and relied on Mr Drew pointing out examples of crack damage. Once I had had a chance to review the CPG report I undertook a second visit to the CTV building, which took place on 14<sup>th</sup> of February 2011. The CPG report did not quantify the scope of work that was required and the purpose of my second visit was to determine an approximate quantity of the reported crack and spall repair in order to provide an initial budget estimate for the remedial works based on the CPG observations. The main areas that I looked at during my second visit, guided by the CPG report, was the crack outside the fire escape in the south shear wall, the level 2 beam cracks on the north face of the building, the stairwell walls, the cracked column on level 6 outside the lift shaft and the adjoining lintel beam spall/crack. I did not form any view about the nature of the damage in these areas as the purpose of my visit was simply to quantify the scope of works required and prepare an estimate. The cracks that I observed in the stairwell walls were generally horizontal and were consistent with construction joints as illustrated in photograph 3 in the CPG report.

20 Q. That is just being brought up now.

**WITNESS REFERRED TO BUI.MAD249.0082.14**

A. My recollection is that there was a thin plaster render over the concrete in the stairwells which had cracked with the joint movement and this render would need to be removed along the crack line for setting up and injection of the construction joints. I saw cracks on both sides of the stairwell as well as in the north shear wall.

25 Q. Looking at that photo that is on the screen, do we see an example of that cracking?

A. Yes I do.

30 Q. That is the horizontal cracking about the middle of the photo?

A. Yes.

Q. Thank you. Paragraph 12?

A. The cracked column and adjoining beam that I inspected on level 6 outside the lift shaft appears to be the same column that appears in photograph 4 of the CPG report

Q. I think that is just coming up.

5 **WITNESS REFERRED TO BUI.MAD249.0082.14**

A. I have recorded six horizontal circumferential cracks in this column with concrete spalling in the overhead lintel beam adjoining this column approximately 1200-1500mm out from the face of the column above the window. I have provided the Royal Commission with a scanned photograph which I took of this column and the adjoining beam and I have drawn along the lines of the cracks with a pen. I have not been unfortunately to find the original photograph in my records.

Q. Just get that brought up.

**WITNESS REFERRED TO BUI.MAD249.0454**

15 Q. So there is in fact two photographs?

A. Correct.

Q. And the first one shows them majority of that column?

A. That's right.

Q. And the cracking is, as you say you have drawn, have you drawn on all of the cracking you could see?

A. Ah, not all of it, the main ones.

Q. And the photograph on the right we can see two of the higher cracks –

A. Yes.

Q. – on the column?

25 A. Yes.

Q. And the damage to – I think you called it the lintel?

A. Yeah.

Q. We can see that above the column in the ceiling?

A. Above the window.

30 Q. Above the window in the ceiling area?

A. Yes.

Q. Was that the only damage to that lintel area?

A. The only damage that I saw, or could see at that time.

Q. I will just get a photo brought up I think it is the  
WIT.COATSWORTH.0001.H.35

**WITNESS REFERRED TO PHOTOGRAPH**

5 Q. This is a photo taken of that, you will see there fifth floor column in lift  
lobby, minor cracking and beam soffit. This is taken on the 19<sup>th</sup> of  
October 2010. Can you make any comment about the damage to that  
soffit or lintel area that we can see on that photo?

A. I can't recall that specific damage and from this resolution I couldn't tell  
whether that was a crack or perhaps paint.

10 Q. Is that the crack that you saw in that lintel area?

A. No.

Q. The one that you saw was that further along from the column?

A. Yes.

15 Q. I will just get one more photograph put up, WIT.PAGAN.0001.45. This is  
a photograph of the same area taken by a quantity surveyor that was  
with Mr Coatsworth and this was taken as I understand it on the  
29<sup>th</sup> of September 2010.

**WITNESS REFERRED TO PHOTOGRAPH**

20 Q. If we can expand the photo on the top left please. Do you see that  
perhaps a better photo of that cracking?

A. Yes.

Q. All right, do you recall seeing that cracking on the 14<sup>th</sup> of February?

A. Look I can't recall and I don't have a record that –

25 Q. Again though is that the same cracking as you have indicated on your  
photo or not?

A. I believed it was further out from the column than that.

Q. We might be able to bring your photo up next to it actually, .0454.

**WITNESS REFERRED TO PHOTOGRAPH**

30 Q. So the crack  
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Q. So the crack on the top left photo, on the left side appears to be close to  
the column, correct?

A. Yes.

Q. And can you faintly see it in your photograph?

A. I, I can now, yes.

5 Q. So the damage that you've circled in your photo is separate damage that you saw on the 14<sup>th</sup> of February?

A. In addition to the, to that photo, ah, cracks that you're referring to, yes.

Q. Can I take you back to your brief please, paragraph 13?

10 A. I have also recorded that the level 2 beam on the north elevation over the entry off Madras Street had five near vertical or diagonal cracks in it above the glass entry area of approximately one metre (in length). This is shown in photograph 5 of the CPG report.

Q. Let's get that brought up?

**WITNESS REFERRED TO PHOTOGRAPH**

15 Q. If we can focus on the top photo please? Can we see the cracking you're talking about?

A. Yes, they're very fine in that area.

Q. Can you mark it? Can you indicate it with the mouse please?

A. Sorry, up there, there's another one we can see up there.

Q. Paragraph 14?

20 A. My notes also record that the south shear wall had one fine, near vertical or diagonal crack in the wall adjacent to the fire escape landing of approximately two metres. This is the same area shown in photograph 2 of the CPG report.

Q. We'll get that brought up.

25 **WITNESS REFERRED TO PHOTOGRAPH**

Q. Can you indicate on that photograph where that is?

A. My, I'm only going on recollection but it was approximately midway under the stairwell and heading up towards the right.

Q. But from the ground towards the door?

30 A. From the ground towards the door.

Q. Did it go all the way to that doorway or not?

A. I can't recall.

Q. Paragraph 15?

5 A. On that second visit to the CTV building I was only able to access parts of the building that were identified in the CPG report or were pointed out to me by Mr Drew. I did not visit any other areas which were occupied at the time or were inaccessible. The inaccessible areas included the lift shaft and columns or beams above ground level, unless these were in public spaces. I did not look at all of the columns. External assessment of the building could only be carried out from ground level and external scaffold or access platforms would be required for a full inspection. We did not remove any wall linings. It was our practice following the 10 4 September 2010 earthquake to note in estimates that until all wall and floor linings, paint and plaster render were removed and the surface laitance along the line of any crack was ground back, it was difficult to quantify the scope and therefore a cost of repair work, and this is the reason that a budget estimate was submitted, and this was a typical 15 approach at this time.

Q. Just so we're clear, are you saying that until you removed wall linings you couldn't see what was involved in repairing a crack or the extent of the crack?

A. Both.

20 Q. And if the crack was more extensive it would probably cost more, does that follow?

A. The, until those were removed you couldn't actually quantify, um, we've worked in other buildings and continue to work in other buildings where what you see and what you finally end up with are different by a 25 significant multiplier.

Q. And in your experience with concrete buildings such as this you were working on at the time, once you removed wall linings were you finding big differences in terms of what you'd estimated for on looking visually from the plaster linings?

30 A. Yes.

Q. What, in relation to more repair work or more extensive cracking?

A. Ah, if I can give one example, ah, it was quoted on, or it estimated on 500 linear metres that was visible, ah, on completion of the remedial works we'd done approximately 4200 linear metres.

Q. Right. Paragraph 17?

5 A. I submitted a budget estimate to Mr Drew on 15 February 2011. He then telephoned me on Friday, 18 February 2011, noting that my estimate had omitted any quantification of the cracking in the lift shaft. I advised Mr Drew that this cracking was not included in the estimate because I had not been able to access the lift shaft during my visits.  
10 Mr Drew then requested that the budget estimate be amended to provide a contingency for approximately 80 linear metres of cracks in the lift shaft walls and to re-submit the estimate on that basis. I had no other information as to the basis of the 80 linear metre figure but was prepared to incorporate this figure on the basis that the initial budget  
15 estimate would be refined as matters progressed.

Q. If we could please have that brought up?

**WITNESS REFERRED TO DOCUMENT**

Q. That's your estimate?

A. Correct, yes.

20 Q. And it looks from the total there on the second paragraph that the total was 80 metres?

A. Correct.

Q. Eighty linear metres, so Mr Drew was suggesting you doubled it basically?

25 A. Yes.

Q. But you don't know on what basis, you didn't discuss with him whether he'd been told that by someone else?

A. No but that was a, it was reasonable to make that assumption.

Q. What was?

30 A. If he was receiving other quotes.

Q. Thank you, 18?

A. I did not have an opportunity to resubmit the estimate with this amendment prior to 22 February 2011.

**CROSS-EXAMINATION: ALL COUNSEL - NIL**

**QUESTIONS FROM THE COMMISSIONERS FENWICK AND COOPER –  
NIL**

**QUESTIONS FROM JUSTICE COOPER - NIL**

**5 WITNESS EXCUSED**

**MR ZARIFEH CALLS****STEVEN JOHN KISSELL (SWORN)**

5 Q. Your full name is Steven John Kissell, you live in Russley, Christchurch and you're currently employed by Otis Elevator Company Limited as a service technician?

A. That's correct.

Q. And your role involves providing safe lift shaft access, and I think you've worked for Otis since 1 November 2010?

A. Yes.

10 Q. You've got a signed brief in front of you of your evidence?

A. Yes.

Q. Can I ask you please to read that from paragraph 2?

15 A. I was asked to provide access to the lift at the CTV building so that someone from Concrete Repair and Protection Ltd could inspect the lift shaft. I met with a person from that company (who I understand is Graeme Smith), around lunchtime on Friday the 18<sup>th</sup> of February 2011. I have been asked to give evidence about this. My role was to provide access to the lift shaft and drive the lift up and down. To enable us to get on top of the lift, it was "crash stopped". This is when the lift is  
20 stopped and the doors opened while in motion using a unique tool, called a v-key. This enables access to the roof of the lift where it can then be driven up and down the shaft providing a view of the internal lift well, which consists of the three outer walls and a cross-section of the floors. The area I am referring to is marked on a plan of the north core attached and marked "A". We gained access to the lift shaft at the top  
25 floor (level 6) and we made our way down the shaft checking the internal walls between each of the levels. We performed this procedure on both lifts. As Graeme noticed cracks he would point them out to me. I helped Graeme by pointing out some cracks to him too. When we  
30 found cracks we would stop the lift so Graeme could investigate further. My recollection is that there a number of horizontal and vertical cracks in the lift shaft, however I cannot remember exactly how many or exactly whereabouts these were. I accompany a lot of inspectors and none of

the cracks I saw on this occasion caused me concern. I've been told that Graeme has said that he saw two vertical cracks essentially running the length of the north wall of the lift shaft. I do vaguely recall Graeme pointing out these cracks to me but don't recall how extensive they were. Graeme was standing at the back of the lift nearest the north wall and I was at the front driving it so he would have had a better view of the wall. I've been shown a picture of part of a drag bar which remained attached to the wall of the lift well and asked whether I remember seeing any. I've also been shown a plan of the north core and it has been explained to me where one might expect to see them. The areas pointed out to me are marked on the plan attached and marked A. I do not recall seeing any drag bars but they were not something I was looking out for. I noticed a crack in the foyer on level 6. The location of this crack is marked on the plan attached and marked A.

15 Q. Just show us where that is, is that the X?

A. Yes.

Q. As you would walk out of the lift on the left?

A. Yes.

Q. Thanks.

20 A. It was underneath the window in the eastern wall by the lift. It ran from under the windowsill diagonally towards the corner of the lift. Its width was approximately three millimetres but it's hard to recall exactly how wide it would have been. I've seen a lot of damage in buildings but thought that this crack was serious because of its width and because it was on a diagonal. It appeared as though there wasn't a lot of strength in the wall which concerned me. I've drawn a sketch of the crack that I saw, this is attached and marked B. The location of the crack and its dimensions is approximate only. I cannot remember –

25 Q. We'll just get that one brought up. So you've drawn in the crack and that's the window immediately to your left as you exit the lift?

30 A. Yes.

Q. And we've heard some reference to this area, before you might have heard it, there's a column on the corner to the right of your diagram?

A. Yes.

Q. Did you notice any damage to that column?

A. Yes I saw cracks in that column.

5 **JUSTICE COOPER:**

What's the grey line in this diagram going from top to bottom? Is it just some imperfection?

**MR ZARIFEH:**

10 I think it is yes.

**JUSTICE COOPER:**

Q. You see what I see?

A. Yeah, yeah.

15 Q. It's nothing you've drawn?

A. No.

**EXAMINATION CONTINUES: MR ZARIFEH**

Q. All right, paragraph 12.

A. I cannot remember whether I pointed this crack out to Graeme or  
20 whether I discussed my concerns with him. I've been shown two  
photographs by the Royal Commission. The first is of the lift lobby on  
the second floor, level 3, the second is taken in the lift lobby on the fifth  
floor, level 6. The layout of the foyer was the same on each floor. The  
windows shown in the photograph of level 3 is the same as the one I  
25 would have seen on level 6. With this being said I confirm that the crack  
I saw on level 6 ran under this window in a downward diagonal direction  
towards the lift. Unfortunately the placement of the crack is out of shot  
in the photographs of level 6. However I can confirm that the crack I  
saw underneath the window was similar to, if not slightly worse, than the  
30 crack that can be seen horizontally across the pillar in the photograph of  
level 6.

Q. All right, and that's the photograph to the right at the moment?

A. Yes.

Q. Can you just tell us anymore as to why you were concerned about this crack you saw in the wall?

5 A. As I was standing there in that area I noticed quite a few cracks, not just in the column but also around the lifts, the doors of the lift.

Q. In the plaster?

A. Yes.

Q. Right, but this crack in particular that you've spoken of –

10 A. It's the way it was running of, knowing that the lift shaft is the strong part of the building and that that was an external wall, that was all.

Q. Okay, and you say you can't remember raising it with Graeme Smith?

A. No, not sure if I mentioned it to Graeme.

Q. Presumably didn't raise it with anyone else?

15 A. No well as far as I was aware the building was being inspected by people, you know, appropriate people to do that job.

Q. Thank you, 14 please.

20 A. I noticed various other minor cracks in the walls and columns on level 6 but none that caused me any concern. Graeme and I came straight into the lifts off Madras Street. We didn't get off at any other floor apart from level 6. This was the only occasion where OTIS was asked to provide access to the lift shaft.

**CROSS-EXAMINATION: ALL COUNSEL – NIL**

**CROSS-EXAMINATION: MS BRYANT**

25 Q. I wonder if we could bring those photographs you have back up. Mr Kissell are you able to inform the Commission as to whether the panel under the window there was gib board or concrete?

A. No, I'm unsure, I don't recall.

**QUESTIONS FROM COMMISSIONERS FENWICK AND CARTER – NIL**

**QUESTIONS FROM JUSTICE COOPER – NIL**

**WITNESS EXCUSED**

**MR ZARIFEH CALLS****PHILIP JAMES REYNISH (SWORN)**

Q. Mr Reynish, is your full name Philip James Reynish?

A. Yes.

5 Q. You've got a brief of evidence in front of you that you've signed?

A. I have.

Q. Can I ask you please to read that starting at the second sentence in paragraph 1.

10 A. I live in Prebbleton, Christchurch. I have been the managing director of Reynish Decorators Limited for approximately 15 years. Reynish Decorators completes painting and decorating services for domestic and commercial buildings.

Q. Carry on, 2.

15 A. Reynish Decorators was contracted primarily to facilitate the rebranding of the CTV building for the doctor's surgery, which occupied the 4<sup>th</sup> floor. This involved painting the following, the parapets and soffits on the exterior around the top perimeter of the building, all internal doors on level 5 and the entry lobby. On completion of the work set out we were then asked to apply water-proofing membrane to the external support  
20 columns on every level. The work began in late January and had not yet been completed when the building collapsed on 22 February 2011. I was not at the building at the time of its collapse and have been asked to give evidence about my observations of the building when I was there.

25

To gain access to the parapets we came up through the roof hatch on level 6. We then affixed harnesses to the roof of the building so that we could reach over and paint from the top down. There were already some anchor points on the building for us to clip to our harnesses. However,  
30 at some points around the building we had to put in our own anchor bracket. This involved affixing the bracket to the edge of the roofing iron. I noticed that the roofing iron looked newer than the building. I understood that the building was built in the 1980s but the roofing iron

looked about 10 years old. I estimated this based on the way it appeared to have weathered. The anchor point brackets attached to the building also looked new. The model was one I hadn't seen before and I thought it must have been a new and therefore a recent addition to the building. I took this to mean that there had been some recent work done on it. The soffits were accessed via the windows and fire exit on level 6. We attached our harnesses to the ropes that were already in place by a window repair company who were also present doing some work on the building. This would have been about mid-February 2011. While I was on level 6 I noticed large gaps around the perimeters of the windows along the eastern side and part of the south side of the building. I have marked on a plan the areas I am referring to with crosses. This is attached and marked "A."

Q. And just, you'll see that on the screen, is that – show where you've marked the, so the windows on the east side and going into the south on that corner.

A. Yes. The join between the steel window frame and the concrete window opening is generally filled with silicone but in some places the steel window frame had pulled completely away from it and you could feel a draft. I have drawn an example of what I saw. This is titled figure 1 in the attachment marked "B".

Q. Just so explain that and take us through that please?

A. Well the internal bit is what I drew is the window sash, the window frame itself, and the external bit is the – would be the opening in the concrete, external concrete wall and the gaps down the side is sort of an indication of what I saw on most of the windows where there'd be, the gap around the window would not be uniform, it'd look like it was pulled away on one side and it consequently had stretched all the silicone which seals the window from the elements, stretching (inaudible 16:51:03) those gaps.

1651

Q. And on that one you've indicated 5 to 10 millimetre gap at the bottom and 20 millimetre at the top?

A. Yeah that'd be approximately for most of them, yeah.

Q. So was it similar in most of them that it was a bigger gap at the top?

5 A. Yeah, tended to be, tended to look like that which made me think that the opening was not square, I'd imagine that the window would have stayed square otherwise the glass would have broken in the window itself so I assumed it to mean that the concrete was not square, the opening wasn't square.

Q. Right, but it was the frame itself rather than the glass that was out, pushed out?

10 A. No the metal frame of the window was, I, in my opinion, was square but the concrete opening that it fitted into was not square.

Q. Right but the gap was as a result of the frame moving out in relation to the (inaudible 16:51:52)

15 A. No, no, the steel, between the steel frame of the window and the concrete of the building that was the bit that was not square.

Q. Right, I understand that.

A. Yeah.

Q. But I'm just trying to understand what had moved, what parts?

20 A. In my opinion the concrete building had moved but the window had stayed square, the metal, the metal in the glass of the window frame was square and stayed still and the building had moved and that's what it looked like to me.

Q. In what direction then?

A. It had moved to, if, towards Cashel Street.

25 Q. So south? To the south?

A. To the south, yeah.

Q. All right, carry on please.

#### **WITNESS CONTINUES READING BRIEF OF EVIDENCE**

30 A. "The gap on the right-hand side of the window frame and it appeared to be larger at the top than the bottom estimated the gap at the top of the window to be around about 20 millimetres and the gap at the bottom to be 5 or 10 millimetres. This gap concerned me because I took it to mean that the building was no longer square and it was leaning away from the

stairwell and the lift tower. I also noticed that the building would vibrate quite a lot when a truck would go past. This didn't concern me because I hadn't been in the building before and I didn't have anything to compare the movement to, however it did seem livelier than I would have expected.”

5

Q. Just before you leave that topic, figure 2 on your diagram, what, just take us through that?

A. Oh yeah, that's the general picture of the concrete columns that we out –

10

Q. Oh you're coming to that, sorry.

A. Coming to that, yeah.

Q. Jumping ahead. Carry on reading.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

15

A. “We made a start on the waterproofing the columns about a week before the 22<sup>nd</sup> of February earthquake. We had completed most of the columns along level 6 by the time the earthquake had occurred. The reason we were instructed to waterproof them was because they had fine hairline cracks through them and I've drawn an example of what I saw, this is titled figure 2, in the attachment marked B.”

20

Q. And what can we see in that?

A. It's just sort of that was like a picture of the columns that were on the outside of the building and it was just fine hairline cracks, commonly called like crazy cracking but and the reason they wanted them waterproofed was obviously to stop any moisture penetrating the concrete and getting into the structural steel of the pillars.

25

Q. And how many columns were there like that, that needed that work?

A. We were instructed to paint them all from the stop storey right down to the ground.

Q. And on which side?

30

A. Round the whole perimeter of the building.

Q. Perimeter? All right. How far had you got with that work?

A. We almost completed the top of level 6, level 6, yeah the very top floor.

Q. And did you find that similar fine cracking on all of the columns or not?

A. Yeah, there was pretty much on all of them.

Q. Carry on, just finish off please, 14?

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

5 A. "These cracks didn't concern me because I'd seen this type of fine cracking in concrete before."

**CROSS-EXAMINATION: MR REID – NIL**

**CROSS-EXAMINATION: MR RENNIE – NIL**

**MS BRYANT:**

10 Your Honour, I wonder if I am able to pull up a series of photographs, BUI.MAD249.0476?

**CROSS-EXAMINATION: MS BRYANT**

Q. Mr Reynish, we're looking there I believe at the east side of the building?

15 A. Yes.

Q. And those are the harnesses that you were talking about?

A. That is the ropes of the clip, harnessed on to when we were doing, when we started painting the columns themselves.

20 Q. When you were talking about a separation between the building frame and the concrete?

A. Yes.

Q. Whereabouts were you talking? Are you able to indicate on the mouse?

25 A. Yeah, down the side of here where it joins up to the building where the, between the edge of that, where the frame, the steel frame of the windows meets up with the concrete –

Q. Thank you.

A. – building itself.

**RE-EXAMINATION: MR ZARIFEH – NIL**

**COMMISSIONER FENWICK:**

5 Q. The opening you have got there between the windows and the concrete, the gap was between made quite sure the gap was between the concrete and the steel frame?

A. The frame of the window, yes.

Q. Now you say this was on level 6. Did you look at any other levels to see if they had the corresponding movement in the lower levels?

10 A. No I hadn't. Those ones just got out to me particularly because when were accessing that area there was only the Relationship Services in there and the rest of the floor was empty so you got quite a good view and there was no furniture or anything in the road and we were accessing the exterior through those particular windows as we went  
15 outside.

Q. So you wouldn't have had the opportunity to see lower down at any rate?

A. No, no, probably more so as we went down the floors.

20 **COMMISSIONER CARTER:**

Q. Just a question regarding the columns that these window framed into, you noticed the, I think you referred to as crazy cracking. On your sketch they seem to be marked, that cracking seemed to be mostly vertical rather than, did you notice (inaudible 16:57:47)

25 A. Yeah, they were sort of, they'd come down and cross-reference sort of almost zigzag sort of shape and so you would, I mean it was possibly not all that clear but it looked more like fine irregular shaped diamonds and –

Q. Could that have been sort of shrinkage cracking in the –

30 A. There was something that could be distributed in the surface of the concrete, yes see it quite a bit on tilt slab panels and that.

Q. You didn't notice anything that you would call a structural –

A. No, no.

Q. – crack that was circumferential on those columns?

A. No, no there was more just like fine crack, fine crazy cracking.

Q. Thank you.

**WITNESS EXCUSED**

**MR ZARIFEH CALLS****PIETER VAN DEN BERG (AFFIRMED)**

Q. Mr Van den Berg, your full name is Pieter, is it Gerrit Van den Berg?

A. Gerrit, yep.

5 Q. Thank you. You live here in Christchurch and you operate your own business called Standstill & Seymour Builders Limited?

A. That's correct.

Q. Based in Christchurch. You've got a signed statement in front of you?

A. Yeah.

10 Q. Can I ask you please to read that from paragraph 2?

**WITNESS READS STATEMENT FROM PARAGRAPH 2**

A. "In January 2011 Standstill & Seymour Builders were instructed by John Drew to provide a quotation for the re-cladding of the western wall of the CTV building at 249 Madras Street. I visited the CTV building and  
15 inspected the western wall in order to provide a quotation. It consisted of block work between square columns for the first half height of the building. I was aware that the wall had become exposed due to the recent demolition of a building immediately adjacent to the wall. I have been asked if I can recall whether there was any separation or gap  
20 between the block work and the square columns but I am unable to recall it with certainty. I then provided Mr Drew with a written quote for the re-cladding of the lower 10 metres of the building with Colorcote RZ8 V-Rib as well as battens, fire resistant paper, scissor lift hire and delivery. The quoted price was \$26,800 excluding GST. That  
25 was accepted and the work started on the 21<sup>st</sup> of February 2011. It was subcontracted to Bruce Campbell Roofing.

Work inside the building. I also went into the CTV building at about this time because Standstill & Seymour Builders were asked to provide a  
30 quotation for putting vanities in the doctors' rooms in The Clinic on level 4. The doctors' rooms were all on the eastern wall of the building. I have marked these on a floor plan of the building marked A."

1701

Q. Can you just take us to those please?

A. These are the doctors' offices on the eastern side.

5 Q. Thank you.

A. The location of these rooms on the plan is approximate only. In order to see how much room there was to run waste pipes underneath I went down to the tenancy on the level below, Kings Education, and removed plaster ceiling tiles in a few different areas on that level. I have marked  
10 with an 'x' the appropriate areas – approximate areas where I can remember looking above the ceiling tiles. That's this one and this one here.

Q. With two Xs on the plan?

A. Yep. In each area of the space between levels that I examined I saw  
15 nothing that concerned me. I saw no damage or cracking to the concrete beams. I do remember seeing a crack in the tiles in the ground floor entranceway, from the Madras Street entrance to the lifts, in February 2011. I believe the tiles had been replaced just prior to that because when I was there it rained and the tiles became very slippery  
20 because they were new and shiny. The crack that I saw was at least 1.5 metres long and ran from about 600 metres out from the eastern-most lift and in the direction of the entranceway. The crack was at least 1.5 metres long. It ran through the first two tiles as you came out of the lift. I have marked the approximate location of this crack on a plan  
25 marked 'B'.

Q. And where's that?

A. Um, here's the entranceway, there's just a line here. Just to the left of the first lift.

Q. So it's a line going that way that crack?

30 A. Yes.

Q. And a crack in the floor tiles?

A. That is the crack in the floor tiles yep.

Q. Paragraph 8?

A. Other than the crack in the tiles I was not aware of any other earthquake damage to areas of the building that I saw other than plaster cracks in the ground floor entranceway from Madras Street.

5 Q. Now just take you back to get you to expand if you can on two areas that you spoke of. The western wall, if I can get brought up BUI.MAD249.0479.1?

**WITNESS REFERRED TO PHOTOGRAPH**

Q. A photo's going to come up of the western wall after the building next door had been removed?

10 A. Yep.

Q. Do you recognise that?

A. Yes. That's where we were going to put the cladding.

15 Q. And you said that you'd been asked to recall if there was any separation or gap between the blockwork and the square columns but you were unable to recall with certainty?

A. Yes.

Q. Does that photo help you at all?

20 A. Um, a little bit. I think they mortared them to the columns but not in the same plane as the blocks. Normally when you mortar a block it's flat but because for some reason I've got a feeling that they mortared it on an angle. It just didn't, and you can see in the shadows of the vertical column –

Q. Use your mouse there to point?

A. Sorry, there's a slight shadow in the vertical?

25 Q. Is that shadow a gap or are you not sure?

A. I'm not sure. I thought that there was some mortar in an angle in there, but I'm not 100% sure.

Q. And just going back to your evidence about looking in the ceiling area on the, on level 4?

30 A. Yeah.

Q. So you're looking at the, what would've been the floor of level 5?

A. Yes.

Q. And you said that you saw no damage or cracking to the concrete beams?

A. Yes.

Q. Did you look at any of the joints between concrete beams and columns?

5 A. No. I was just really concerned with running the waste pipes through and the beams were so high we were looking at whether we had to drill through them or run them underneath. I was staring at the beams but not at the connection.

Q. And did you have to drill through any beams?

10 A. No. We didn't get to this point. It was just still the initial investigation to see whether it was possible.

Q. Did you see any holes drilled for pipes or cables or things like that in the beams?

A. No there was no holes in there that I'm aware of.

15 Q. How many beams would you have looked at in that area?

A. Maybe three.

Q. And if you had had to drill holes for pipes or similar what would be the procedure?

20 A. Um, we would've got an engineer or see if we required permits. I talked to my plumber about it and basically thought it was getting into the too hard basket and we'd have to try and find an easier way of doing it.

Q. Why too hard?

25 A. Drilling in conc – holes in concrete beams, it's the structural nature and you've got the, the school working below there, you'd have to make a lot of noise and mess so it wasn't going to be a simple project.

Q. So you didn't get to that stage then?

A. No.

**CROSS-EXAMINATION: ALL COUNSEL - NIL**

**QUESTIONS FROM COMMISSIONER FENWICK AND COOPER – NIL**

30 **QUESTIONS FROM JUSTICE COOPER - NIL**

**WITNESS EXCUSED**

**5 MR ZARIFEH ADDRESSES THE COMMISSION – TIMETABLING**

**COMMISSION ADJOURNS: 5.08 PM**

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