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**Garden Bridge Review**  
**Meeting transcript**

*Event: MH/National Audit Office*

*Date: 30 November 2016*

*Present: Dame Margaret Hodge MP*  
*Rebecca Sheeran*  
*William Rollo*  
*Claire Hamilton*

REBECCA SHEERAN (RS):

I'm sure you have questions and I'm happy to be led by questions that you have. Is it helpful for me to explain sort of what documents we had access to in doing this piece of work?

DAME MARGARET HODGE (MH):

Go on, yeah.

RS: Because I think that sets it in context.

MH: And then it might help me, actually, in deciding on -- yeah, go on.

RS: Okay. And Will worked on this review and he'll know the detail better than me - but in principle, the backdrop to this. We'd received quite a lot of correspondence. We wanted to have a look at this from an accountability perspective. Our remit is pretty much restricted to looking at the Department for Transport and following the money that the Department for Transport hands out, hence the scope of the review, which is very much focused on the handling of their grant. So primarily, all of the documentary evidence that sits beneath this report has come from the Department for Transport.

MH: Yeah. Not from Treasury?

RS: Everything has come through the Department for Transport that we have received, so initially it was documents that they held. There are one or two things that came from the Garden Bridge Trust themselves directly in the clearance process where they wanted to clarify things, but pretty much all of the information we've got is from departmental documents, including submissions to ministers. It's the full range of things: exchanges of emails between senior officials, all of that evidence trail, all the things that you would expect. I think there are one or two bits --

WR: We had a number of items that were in the public domain as well. The funding agreement and things like that between TfL and the Trust.

RS: Yeah. Neither TfL nor the Garden Bridge Trust submitted any primary documentation to us, other than we saw, I think, a couple of press statements that they drew our attention to in clarifying some of the numbers that we were quoting and points in time that we were quoting. But pretty much everything has come through the filter of how the department saw the project at a given point in time, which I think for the scope of our work was entirely appropriate, because we were looking at how did the department conduct itself. So does that help put it in position?

MH: Yeah, that's fine. Yeah.

RS: Now, do you want me to talk through the findings or do you want to ask me some questions about particular bits that you wanted to know a bit more about or ...?

MH: One of the things, you got to £37.7 million spent on the bridge. Is that your most up-to-date figure or have you gone back on that?

WR: That's not the latest figure. That probably would have been superseded by now. I think that was May of this year.

MH: I'll tell you one thing that interests me. Your main criticism is that they went ahead without the permissions, , that's one of your findings, they went ahead without having secured the permission on the land. That's in point 3 of the note, without getting the PLA.

WR: Yes.

MH: Why did you not look at the funding?

RS: I think our findings are actually about what the department knew at the time and why it relaxed its grant controls. We couldn't audit the Garden Bridge Trust itself or even TfL and so --

MH: I understand that, but to know whether the department acted in a proper way, particularly in giving the underwritings, you needed to have a feel of the risk and a big chunk of the risk is dependent on how successful they are at getting their private resources.

RS: Yeah. So we did look at what the department knew at that time, and one of the things that we highlighted in here, that basically up until the current Secretary of State coming in, the department didn't really hold any information. And that's partly because of the way it had set up the project intentionally, frankly, in order not to have that information.

MH: So when the department took the decision then to go out to whatever it was, £13million, £13.5 million of underwriting, they did that without any knowledge of how much private money had been raised?

RS: They were getting basically verbal updates as I understand it. But in terms of a documentary trail for us to look at, we couldn't see that they --

MH: Because it was verbal updates?

WR: So at the request of ministers and the Department of Transport, there was monthly updates requested as a result of the ministerial direction that was issued.

RS: So that's only in the latter months. So prior to that point, the first increase - and indeed the second increase - came at a point at which the department didn't have any access to any information. It didn't have access to detailed project management reports or funding reports. A lot was happening via conversations, which we point out in the report, but they --

MH: Between who?

RS: I think with the department there were conversations between their London team, so at a relatively junior level in terms of the civil servants, and the Garden Bridge Trust, but it was all done on the basis of "Could you do me a favour? Could you give me some information?" as opposed to, "We are giving you this money and we are entitled to know what's going on".

And that all goes back, as Will said, to the way in which they set it up. I think I'm paraphrasing what's in our report, I don't think I'm going beyond it here. It's almost a, "We've got some concerns about value for money. Well, if we make it TfL's problem, we don't have to worry about it". That's basically how the thing was set up. They didn't want to be in a position where they were monitoring the overall confidence over the programme.

MH: But within the department, if they were being asked to release more money, they had to have confidence.

RS: Which I think is implicit in what we say in our report.

WR: The whole arrangement was for TfL to get assurance as well through the funding agreement, that they had the close relationship. And I imagine there was an element that TfL were feeding back the information to the department.

MH: Because when I think would I have given them extra money, I would have looked at permissions, but I would have also looked at were they raising the private money.

RS: Absolutely. Well, if you were directly funding a project you'd want a full risk register, you'd want to know what the profile was. And if you set a condition to try to manage your exposure to risk, you wouldn't want to go back on that condition without seeing what your current exposure to risk was on that. And that comes from, you're right, the project as a whole, which is why we do note in the report that they weren't receiving monthly updates until June 2016.

WR: I think an important fact is the fact that the money in full, the £30 million that was pledged by the Department for Transport, was actually given in its entirety to Transport for London.

MH: Yeah, I know, I know. Well, use of it. It had conditions --

RS: And one of the difficulties is actually to what extent were those conditions ever binding anyway. Because of the way they'd done it, it was done as basically an unringfenced grant. If you contrast with something where -- I don't know, culture, media and sport sector grants, small grants going to the museum, "Here's some money. We'd like you to do an education project. We'd like you to spend this much.

We'd like you to give us a performance report that says what you've done when you've done your education project".

MH: It wasn't even ringfenced.

RS: It's not ringfenced. Essentially it's added as an uplift to the TfL general grant anyway.

(Break in recording)

RS: "The funding commitments to the Garden Bridge project were made by the then Chancellor of the Exchequer to the then Mayor of London without the involvement of the Department for Transport."

And we subsequently note in the report that the Department for Transport, having been gifted this project to do, then had to assess it in --

MH: So why haven't you gone back to the Treasury to see how they've spent it? Why did you not, on how they took the decision?

RS: That's a good question.

MH: The business plan wasn't done until yonks after they already had the money.

RS: There wouldn't have been anything there is my hunch. I don't know whether that's an on or off the record thing, but I don't think there would have been anything to audit. I don't think we'd have -- , in the context that --

MH: Did you talk to Treasury officials at all?

RS: We did, in the process of clearing the report, and we tested whether they recognised this. We received no comments from Treasury, I don't think. There might have been a couple of points of detail.

WR: No, they agreed with the content of the report.

RS: Indeed, and one of the difficult things for us, our remit is to audit the Civil Service, but obviously in doing this, you -- I think Amyas would say you see the way decisions are really made in Government and, there is a paragraph in here where we note in respect of the ministerial direction later on that we had seen a communication from the Cabinet Secretary expressing a view that the --

WR: 3.23, the last sentence. It says:

"The ministerial direction was in the context of an email from the Cabinet Secretary informing the accounting officer that the then Prime Minister and the then Chancellor felt frustration at the need for a direction."

RS: So this is him expressing frustration at the need for Philip Rutnam to comply with his duties under managing public money and to seek a direction for doing something he did not believe to be value for money.

MH: Yeah. And how awful, terrible. NB.

RS: Okay. It's the most interesting line in the whole report. If you're an observer of the --

MH: I hadn't even noted it, yeah. I hadn't, so thank you, yeah. Awful, that is awful. I'm going to use that in my general discussions about accountability.

RS: Yes, it is. And that's why we were interested. It's a one-liner, but Amyas felt very strongly that it was one line that needed to be in there, in view of our wider commentary.

MH: What I don't get is, if you then look at the Department for Transport, they look at it at an early stage. They say it's not a transport project. They also say it's a high risk of value for money, but they agree to go ahead.

RS: Yes. I agree, I think there is a question about whether they could have sought a ministerial direction earlier.

MH: At that point.

RS: I think the argument that was put to us -- , they considered it, it was discussed, I think, at their board. I think the argument they have made, and I think they may have made this argument publicly, actually, is the accounting officer could not preclude the chance that it might be good value for money. The issue for them was it was very uncertain whether it would be value for money, not that it was a clear case that this was a poor value for money thing to do, definitely.

MH: But even then they should have known how -- they should have the information on which to take a proper decision. They didn't know how much money. Did they know about -- was the Trust there by then?

RS: Yes, I think so. Because the Trust has actually been around for quite a long time. I think one of the interesting things to think about is even if Philip had -- and it is an accounting officer's personal judgment about when to seek a direction - I think there is a question and it was probably fairly finely- balanced but you probably need to talk to Philip Rutnam directly about that.

MH: Are we going to talk to Rutnam?

CLAIRE HAMILTON: He's on the list.

RS: And if you want to explore that question, it has to be him personally, really, not any of his officials, that you have that conversation with. But I do wonder, if Philip had

sought a ministerial direction earlier, would it have made a difference to the way in which the project was conducted in the context when there was far greater evidence of a risk to value for money?

MH: They still put the £30 million, yeah.

RS: He covered his own back in his direction, which was the right thing to do in the circumstances, but he still got directed to support the project. I don't know how much difference it would have made in the context.

MH: Just out of interest, when did that direction come out?

RS: The direction came out the day before the publication of our report or on the day of publication of our report.

MH: Why was that?

RS: At the time at which we were first made aware of the direction and Meg was alerted to the direction shortly after that, because we are required to do that, as you will well know, an argument was made that it was commercially sensitive; managing public money does not require you to make a direction available immediately; it encourages you to bring it into the public domain at the earliest appropriate time. But the requirement in managing public money is that it is made public no later than at the time of the publication of the next set of accounts. It is ambiguous.

MH: So it's a weakness, isn't it?

RS: Yeah, it's ambiguous.

MH: Can you do me a note on that?

RS: Absolutely. We could do you a note on MPM(?).

MH: Just on the process and then also the timing, so that he did the letter in whenever, whenever.

RS: Yeah, so you've got the dates of the letter. We can pull all this together for you.

MH: Yeah. And in May, it was May 2015, wasn't it?

RS: Yeah, and about a week or so later - and we can check our files - but we were made aware of it. At the time there was an argument. You will see it's marked as being commercially sensitive.

MH: Commercially sensitive to whom?



WR: The Trust. Because of the land acquisition, "We can't then negotiate. We are negotiating how with Coin Street Community Builders".

RS: Yeah, so commercially sensitive is perhaps not the perfect term to use here, but they were basically worried that there was a public interest, in that if Coin Street knew about this, it would make it even more difficult to conclude the negotiations - which at the time were expected to be concluded very shortly - and that they would string it out and that it would change the negotiation position and that would result in a loss of public value.

Amyas had quite a back and forth with Philip Rutnam about trying to really understand where the public interest was.

MH: Quite.

RS: In the end, where we came down to was that, given that they were expecting negotiations to be concluded shortly, Amyas wrote to Philip Rutnam. I think I can tell you all of this, because these are all -- , you could get hold of these documents if you wanted to, I'm sure. But it's an exchange between officials, isn't it? Amyas was very clear with Philip Rutnam that he expected it to be made available at the earliest opportunity. "As soon as the sensitivity around those negotiations goes away, we would like you to put it out".

MH: And there's still sensitivity, if you like.

RS: I think we then had a lot of conversations with them in the course of clearing our report, where we were quite clear that we were going to publish it anyway. And I think in the end the department recognised that the particular circumstances, since a lot of stuff had come out in the public domain about the difficulties on the project and not least, I think, that the Trust had made some public statements in response to some of the Newsnight coverage.

Oh, I know what it was. The Trust made a statement publicly around the time that the Secretary of State agreed to extend the period of the guarantee, saying, "Without this, we would have been done" or words to that effect.

MH: Did they say that?

CH: I think that was on the back of the Newsnight report, wasn't it? I seem to remember watching that.

RS: It was, and then, yeah, it was all around the same time, but it was touch and go for a while whether the Secretary of State was going to extend the guarantee. In the end what they did was extend the guarantee, but reduce the amount in order to protect their position. When they did that, the Trust made a public statement saying, "It's really great that they've given this vote of confidence and they've extended the guarantee, otherwise it would have been very difficult for us" which to our minds was

a very clear signal to the world at large that they were having difficulties. And the fact of the knowledge of the exchange of direction letters would not change the negotiating position at all, which is why we were quite firm in saying, "Look, we're going to publish this". The department came around to that point of view and published the letters at about the same time as the publication of our report.

MH: In your work in the NAO, is it usual to let a contract before you've raised the money?

RS: I'm trying to think of any examples where I've seen that on other projects. To let the contract before you've got the funding, I can't think of any examples off the top of my head. We can take that away and have a think about it some more, but no, I don't think it's usual.

MH: Because, you see, that's another thing that is quite extraordinary, and of course now, because they haven't got the permissions, the costs are -- they said to me that costs - I don't think I'm even confident; maybe I am - is that, , they're now talking about £200 million.

RS: So I think there is a question about, letting a contract and having a contractor who you are paying before you have certainty that the project can go ahead.

MH: Well, they're different things. Certainty is the permissions; the money is a separate -- and they lost money, they went down from £85 million to £70 million, didn't they? I think the Wellcome Foundation -- it's a bit unclear who dropped out.

WR: Who pulled out?

MH: Yeah, somebody pulled out.

RS: I think there are a couple of things to separate out there. In terms of letting a contract before you've got the money, I don't think you would ever really see that in a public sector funded project. You simply wouldn't have a --

MH: Or a voluntary sector funded partly ...?

RS: I am less certain about that, because I think that there are circumstances where things that are privately funded or third sector funded, where people get to a certain stage with some seed funding and --

MH: Like the Tate, that might be one example.

RS: There may well be examples. They wouldn't be ones that we'd audited though, I think they would be a bit further out. But I can envisage circumstances in which you have a certain amount of funding to get you a certain step of the way and that you wouldn't expect investors to invest very heavily until you got a point where they were sure they were going to get a return on their investments.

MH: Well, they're not getting a return.

RS: Well, that their investment was going to deliver something. The planning permission I think is a really interesting issue. We've published a report on a project we've seen where they were doing bits of work on a project before they had all of the planning permissions.

The Greater Western route modernisation that we published a report on earlier this month, where they needed something like 1,000 planning permissions all the way along the route, and instead of going for a Transport and Works Act, which would have got them the one planning permission, it takes longer to get and then you start working, they thought they could get it as they went along and they didn't allow enough contingency for it. And the risk is you end up doing a lot of rework. So I think there are consequences there of not having spent enough time getting your planning, then letting your contract. I think there's a sequencing thing. I think there are examples in the public sector of where you don't spend enough time in planning and making sure you've got the permissions you need to start work and things then, frankly, becoming inefficient in the way in which they're delivered.

MH: It does seem that they just -- , even forget Coin Street, which they shouldn't, anybody who knows Coin Street would have known they'd be a difficult customer, and they should have known that, if they'd been at all sensitive. Anybody would have realised that. But they were moaning to me about the Westminster side, where there was an issue about who owns the air above Temple Station. Did you get into that?

RS: We did in our report. I'm aware of some of the issues around it.

MH: So it's obviously ridiculously complex, so you're obviously going to take ages to sort that out. And they were moaning that that took a year and I thought, well if you're talking about ownership of air, you can begin to see, blimey, by the time lawyers have got to grips with that --

RS: So I think that is similar to the Great Western example in a way, because if I was auditing a project like this, I think, "It's complicated to get planning". Given we all know what the legal and planning frameworks are, it's not really a very good excuse. Everybody knows it's complicated. You should do your due diligence. That would be my view if I was auditing in a public sector project.

I think there are definitely examples that we have audited where we can point to where not getting your planning sorted out in a logical sequence leads to problems delivering later.

MH: If you can give me a little note on that. It's one of the issues. If you can't help, you can't help me, but if there are things that you can help me with.

WR: We'll look at it and see if we've got some example, and see what we can come up with.

RS: I'll pull out the example from the Great Western report. Can you make a note of that, Will?

WR: Yeah, I've got that there, yeah.

MH: And the other thing you didn't really look at this guarantee over maintenance and management.

RS: It was outside of our remit. I think we do point to somewhere -- there's a line or two in the report somewhere, isn't there, Will, that says --

WR: Yeah, just looking at the handover as well from the former Mayor. We've got, "The Trust is responsible for the maintenance of the bridge".

RS: 3.3.2, "The Trust is responsible for running and maintenance of the bridge" and we put in what the estimates of those maintenance costs are. And then we talk about:

"The guarantee that the Mayor of London could give, but it was provisional on the Trust being able to demonstrate that it had secured appropriate levels of funding for the first five years of operation."

Which it hasn't.

MH: You see, that was a change. Originally it to be the funding and then it was a funding strategy.

WR: It changed, yeah, quite late on. Just before the changeover, yeah.

MH: Just before the election. And you didn't look at that either?

RS: Well, it was outside of our remit. The reason we did put this paragraph in, just factually stating how the position has changed, I think we did feel that that paragraph was important, because it's another area of risk.

And the final sub-bullet of para 12 in the summary:

"If the project continues, it is possible that the Government will be approached for extra funding should the Trust face a funding shortfall."

Well, that could apply either to a capital funding shortfall --

MH: Yeah, or revenue.

RS: Or revenue and given that uncertainty about exactly who is guaranteeing what --

MH: And the capital gap is growing by the day.

RS: And, you'll be familiar, I'm sure, with the work that we did on Kids Company as an office, where we talked very much about patterns of behaviour and course of dealing and patterns becoming repeated. I guess that was partly what was in our mind when we wrote those words at the end of paragraph 12, that, , what we've documented earlier on is basically every time things have got more difficult they have come -- , at the moment, they're not actually getting more money, it's just the grant is getting advanced and it's changed the terms, but I think it does raise a question, would Government keep saying yes if they came back? And, I don't know what the answer to that is now. We have a different Government, we have a different Secretary of State, we have a different Chancellor, and I think the fact that Philip Rutnam had sought a ministerial direction means that he wouldn't --

MH: It's all now in the public domain, so he wouldn't dare now, I think.

RS: And he wouldn't readily give more to the project, but --

WR: No.

MH: No. Who should I talk to? Who's the guy that we keep thinking we ought to talk to there? They're not being very keen on letting me talk to anybody at the moment, but we shall see.

RS: In the department? Well, I think it depends what questions you want to ask, but if you want to ask questions around, , "Why didn't you seek a ministerial direction earlier?" I think --

MH: It must have been Philip.

RS: -- I think it has to be Philip, because it's a very personal decision, a ministerial direction. Within his team, Tricia Hayes is the Director General who's responsible for lots of things, but including London, but she won't have been in post as DG at the start.

MH: Who was that guy whose name we got?

CH: We were offered Rupert Furness.

RS: Rupert Furness. Rupert is the person who's closest to this and it was Rupert who we dealt with on this. He provided us with all of the information, yeah. Of course we have statutory access rights and he had to provide us with all of the information. But I think probably you'll find from the departmental perspective, they think -- I think they're fairly happy with the report, but I think it pretty much reflects --

MH: Yeah. I think they would be happy if I closed it down.

RS: Yeah. I think this report reflects pretty much all the information they've got. I don't think you'd find heaps more. There's probably a few things that we've summarised, but ...

MH: I'm trying to think if there's anything else you can usefully give to me with hints as to where I should go and what I should do.

RS: What about general things we could give you that might help you in terms of I could give you some information how we would audit the set-up of a project.

MH: You didn't look at their internal audit, did you? I tell you what I find really hard. There are two things. One is the - you're doing a bit of work on it - internal audit. It would be really helpful as to what you would expect an internal audit to have in it. So the internal audit, let me tell you the allegations around it. The internal audit, which was on the back of one of AM people -- it's Caroline Pidgeon, they set it off. And they were looking at basically procurement processes and then suddenly -- and whether or not the proper procedures were followed, and suddenly it becomes a VFM audit on the back of the guy being audited changing it. And I was thinking, because there's a negotiation that goes on, you would never negotiate out -- , I never quite knew what you would negotiate out, actually. Sometimes we wonder what got lost here in the negotiation process, but in this one, what got lost in the recommendations were, "You failed to follow your procedures in all sorts of -- about five or six different ways".

RS: I know what you're talking about and I'm aware of this. So I suppose your questions to me are, "Who would you expect to be setting an internal audits brief? Who would you expect to approve changes to an internal audit brief and would you expect findings to change in the course of an audit?" I don't think we have an office position guidance on it.

From my experience as an auditor... I don't quite know how this translates across to TfL. In any organisation that I audit, the internal audit programme, the subjects for audit should be approved by the audit committee, so non-executives and executives. The executives should have a role in identifying areas where they want internal audit assurance. I think we typically see that.

I've not really come across, in my experience, internal audits changing massively in terms of scope unless the scope of the review was no longer relevant or was not helpful because something had moved on in terms of London. It does happen that internal audit -- or it happens that we start doing a piece of work and we start doing an audit and we realise actually we had the wrong question, there's something else that's of bigger public interest that we should be focusing on. I wouldn't expect changes to a piece of audit work to come about purely from the person being audited.

I have seen - and I would expect it in some circumstances - the people being audited may suggest a change in scope because they know the subject matter better and they might be thinking about what assurance is most useful for them, and that does happen. But I think if it was a very significant change in scope, I would expect that to be approved by the audit committee, if it was a very significant, high-profile piece of work. That's all speaking from an entirely hypothetical place.

MH: I'm quite shocked, I'm afraid I have to tell you, by your processes, absolutely shocked. They just wouldn't happen in Government, everything. Procurement processes are outrageous and conflict of interest, it's just awful. Somebody has got to look at it. It goes beyond this little bit of money. It's just awful. This is where - what do you call it - the Audit Commission would have come in.

CH: Can I ask a question that picks up possibly up on your point about - this might need to be a bit off the record - some of this around the TfL oversight that's being carried out in your evaluation of what might have been different if DFT were doing that properly and you might expect them to do? So when they release funding, for example, how vigorous they are in that assessment.

RS: It's really difficult, because the grant landscape is very varied these days.

MH: But if you take Kids Company as an example, you were very critical there of the way money was released.

RS: Indeed, and more --

MH: Actually, we might look at that.

RS: I think it's worth having a look at that, because that is almost an example of, our view of what is not good practice. We may have some slightly older things knocking around in the office that we have done on good practice guides on giving grants, because we looked into that when we were doing this work, didn't we?

WR: Yeah.

RS: Just have a dig around and see if we've got any of the old -- they'll be a little bit out of date, but good. It's difficult where we're talking about local bodies, because increasingly grants are not ringfenced and there are not many conditions to attach.

MH: No, no, this is just giving a grant. There was a grant for the purposes -- there is a grant agreement between TfL and the Trust, and in that agreement, they just didn't stick to the rules, they didn't stick to the conditions.

RS: Okay. So in my experience of auditing grants where there are conditions attached to them, the things we've seen in other sectors, if there are conditions written into the grant agreement I would expect them to be followed. Typically I would expect some of those conditions would maybe be linked to release of funds or decision-making authorities. A condition might be, "We want somebody to sit on your board and they should be happy with decisions that are taken at the board" might be a condition you might write in. If you wrote that condition in, I would expect it to be complied with. I think if there was a variation against that, I would expect that to be done formally through a variation to the grant agreement rather than just not complying with the term of the grant agreement. The other things I would expect --

MH: You didn't have any of those? We can ask whether there were any variations.

CH: There are some variations, yes. That's summarised in one of the documents that I've given you.

MH: All right.

RS: And I'd expect there to be some structure around variations. So there'd have to be agreed variations. You'd expect there to be some scrutiny about what it meant. I would expect to be written in - and bear in mind I haven't seen any of the terms in detail - I would expect there to be some rights to information should be written into a grant agreement and I would expect that if you've got a right to information that you use it, ? And if you're writing in things like, , "I require an assurance on -- , I want to see your accounts and they should be audited accounts" I'd expect those accounts to be audited. I know there is an interesting issue about changing the year end. Have you looked into this?

MH: Yeah, we've looked at that, yeah. They did it because they'd have had to close.

RS: So if I was giving a grant to somebody and I wrote into my grant agreement that I want to see audited financial statements as part of the conditions of the grant, I would expect to see those audited financial statements at a set date. I would probably expect, if you were changing that date, that you would want to do that through variation to your grant agreement.

CH: I'm not sure that any of the conditions were that they would see the audited accounts. I don't think that's one of evidenced conditions.

WR: No, no, in the funding bit, we do make reference - 2.15 in our report – around consideration of some of the grant -- the funding agreement terms, for example, in particular it stated that TfL would assume responsibility for those overseeing the Trust. Subject to certain milestones being met, funding would be released, that thing. It's referenced in 2.15.

RS: Can I make an off the record comment on that?

MH: Go on.