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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

Reference: Operation E19/1595

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 10 MAY, 2023

AT 11.45AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Yes.

MS DAVIDSON: Chief Commissioner, Mr Andrew Gayed is to be recalled today and he's at the back of the Commission.

THE COMMISSIONER: Yes, Mr Gayed, could you come forward please. Yes thank you. May the witness be re-sworn.

THE COMMISSIONER: Thank you, Mr Gayed. Now, Mr Hammond?

MR HAMMOND: Yes, I appear for My Gayed.

THE COMMISSIONER: You appear for Mr Gayed, thank you. Yes. All right. Thank you. Now, My Gayed, your evidence will be subject to the
10 same declaration which I made on the previous occasion pursuant to section 38 of the ICAC Act. So you recall that declaration?---Yes, Commissioner.

And you understand that?---Yes, Commissioner.

All right. Thank you. Yes, thank you, Ms Davidson.

MS DAVIDSON: Chief Commissioner, I note Mr Gayed has a mask on.

THE COMMISSIONER: Yes, if you'd like to take your mask off that's
20 quite in order, thank you.

MS DAVIDSON: Mr Gayed, do you recall finding out at some point in the second half of 2020 that a party on a boat was contemplated or a yacht was contemplated as the 2020 TAP Christmas party?---Yes.

How do you recall finding out about that?---From memory it was an idea floated by someone in the office that that was the preferred Christmas party.

Right. Do you recall discussing that with anyone in particular?---I think it
30 was Laura.

That's Laura Inglis?---Yes.

Right. Do you recall when that was?---Not particularly. It was probably mid, mid-2020 or a bit later.

All right. Was it an idea that she raised with you?---Yes.

And do you recall her raising with you a question about how that could be
40 funded?---Yes.

What did she say to you about that?---“Let’s see if we can get funding from subcontractors.”

Right. Did you understand that to be a proposal that she was raising because there was some difficulty with obtaining funding from Downer?
---Yes.

Do she tell you why that was?---No.

10 Were you surprised by that being raised with you, that is funding from subcontractors for a Downer Christmas function?---No.

You weren’t surprised by that?---No.

Why was that?---It was my understanding that every Christmas party was supported by subcontractors.

You understood that every Christmas party was supported by subcontractors.---That was my understanding at the time.
20

All right. Where did you obtain that understanding from?---That there was no budget for Christmas parties.

Had you attended previous Christmas parties that you understood to have been funded by subcontractors?---That I understood, yes.

And had somebody told you that they were funded by subcontractors? How did you arrive at that understanding?---That understanding was arrived by essentially the understanding that there was no budget for Christmas parties and - - -
30

Who did you discuss budget for Christmas parties with in previous occasions, that is, prior to this discussion with Ms Inglis about the 2020 Christmas party?---I didn’t have any discussions about budgets with anyone. It was just, it was understood that, I mean, we - - -

You must have got the understanding from somewhere. It didn’t come just from thin air, presumably.---Yeah. Correct. Where would the money come from essentially. I had the budgets. I know the other PMs had their budgets and there was no Christmas party line budget.
40

That is because you knew there was no money in the project budget - - -?
---Correct.

- - - for Christmas parties.---Correct. Yep.

You had assumed from that, had you?---Yes, essentially.

10 All right. But there was no reason to think that Downer wouldn't, out of a separate budget, pay for its corporate Christmas functions.---Probably, probably not. I'm not too sure on what, what they did.

All right. So you'd never really had any occasion before this to consider funding of a Christmas party, had you, that is how Christmas parties were paid for within Downer?---No. Like, every Christmas party, so by 2020 that was my third Christmas party at Downer.

Right, but you hadn't turned your mind, had you, on previous occasions to how the parties were paid for?---I wasn't asked on previous occasions, no.

20 Right. So in 2020 what did Ms Inglis come to you and say in relation to the funding issue?---Just like I said, "See if we can get subcontractors to contribute."

Are you sure that wasn't a proposal you took to her?---Yes.

Because it's not something that Laura in her role would have been likely to come up with her on her own, is it?---I'm not sure what she would come up in on her role.

30 Well, her role was an administration role, was it not?---I'm not too clear on what her role is.

All right.---Or was.

What did you understand her role to be? She worked with you, did she not?---She worked in the head office.

40 Right, but she had a project administration role assisting you in relation to Wollstonecraft.---I can't recall. I recall her being a personal assistant. I recall her being office manager. Like, there was many hats on Laura.

Right. But had you previously had somebody assisting you in relation to administration on the Wollstonecraft project who departed and Ms Inglis subsequently assisted you in relation to that project? Do you remember that?---I think that, I think that, yep, triggers a memory of that, yes, perhaps, yeah.

Right. Right. So Ms Inglis in assisting you in relation to administration - - - ?---Yep.

10 - - - was junior to you. You'd agree with that?---Yes.

Right. So it's unlikely, I suggest to you, that she would have come to you with a proposal to fund the Christmas party based on obtaining contributions from subcontractors?---Okay.

It's not an idea that she would have come up, is it?---My evidence is that she did.

20 Do you have an actual recollection of her coming to you and saying to you, "Can we fund this Christmas party from subcontractors?"---Not that specific recollection, no.

Right. So you're speculating, are you?---No. I'm saying this is, this is what my recollection is. There is no one specific event that occurred for that to happen, but - - -

30 Well, it seems as though you don't have a particular memory of her approaching you in relation to, with the idea that it be funded from subcontractors?---The memory is a little bit sort of vague in terms of the evidence that have, that has presented previously and, and what I'm trying to form in terms of what happened but that, that's my memory of what happened.

All right. Well I suggest to you that in fact it was the other way round that you went to her and proposed that you could assist her in relation to sourcing funding from subcontractors. What do you say to that?---Well I disagree. I had no interest in being on a boat at all. So that's, I would disagree with that assertion.

When you say you had no interest in being on a boat why was that?---We had just come out of COVID. I wasn't particularly interested in being crammed with 40 people on a boat.

It would be preferable to being crammed inside a room would it not?---Both of, both of those were not preferable at the time.

10 Did you say to Ms Inglis in the context of the discussion that you had with her about the boat party for the first time words to the effect of, that you would sort it out, that is the funding?---My recollection of it was that she was going to ask the other project teams and everyone would kick in.

Where you say, "She would ask the other project teams and they would kick in," do you mean from their project budgets or - - -?---From, from - - -

Everyone would assist in sourcing funding?---Everyone would assist in sourcing a contribution.

20 Right. And did you offer to assist in sourcing a contribution?---I believe so yes.

And is it your evidence that you understood other people were doing likewise?---Correct.

Was that something she said to you or something you discussed with other project teams?---Something that I assumed.

You assumed?---I assumed.

30 All right. So you didn't actually have any discussion with her about it? ---Not that I can recall.

All right. So did you, in the context of your discussion with her say that you would try to source funding from subcontractors associated with Wollstonecraft?---I think so, yes.

Right. And did you subsequently after making that offer to Ms Inglis, approach Tony Nguyen of RJS?---Yes.

40 What was the nature of that approach? Did you call him? Did you speak to him on site?---I can't recall the manner in which I spoke to him.

Right.---But I had, I had a conversation with him.

And what do you remember about that conversation?---I think it was something to the effect of, “Can you contribute to the Christmas party?”

Right. Did you at that point pause to consider the appropriateness of asking a subcontractor to pay for a Downer Christmas function?---I, I did not.

10 Because it was inappropriate wasn't it?---At the time I did not think so.

But you would agree now that it was?---Looking back at it, yes it, it shouldn't have been handled that way no.

And in the context of your conversation do you remember whether you spoke to Mr Nguyen about other subcontractors also contributing?---Not from the Wollstonecraft site, no.

20 Right. Do you recall speaking to him about the nature of the function? That is there was a party on a boat?---I believe so but I did say to him that Laura would iron out the details.

All right. Do you recall how Mr Nguyen responded?---From, from memory he was accepting of it. Of the idea.

That is he accepted the idea?---Yeah.

30 All right. And then did you suggest that Ms Inglis would be in contact with him?---I, I suggested that yes. The, the communication would be between them moving forward.

Right. Did you ask Laura Inglis to call Tony Nguyen and ask RJS to pay for the function?---I think there was a, a period of time where Laura was asking me what, what's happening? And I said, “Look I don't, speak to Tony.” So I think there could have been a conversation around that yes.

40 All right. Was there a point in time though where after your conversation with Mr Nguyen, you told Ms Inglis that RJS would be the people to contact about paying for the Christmas party?---Yes so there would've been something around that yeah.

All right. Did you ask her to actually make an approach to Mr Nguyen?---I, I don't think I did directly but the, I think it was just assumed that she, she would.

It was assumed that she would?---Yeah once, once I said there's an agreement or there's an acceptance of, of a contribution there was, the assumption was - - -

10 Right. So you told her that RJS had agreed or accepted paying for the Christmas party did you?---Correct.

Right. Did you regard that approach to RJS as effectively being a payback for you having awarded or Downer having awarded the contracts to RJS for Wollstonecraft?---No.

Why did you decide to approach RJS as opposed to any other contractor? ---They had the largest contract, subcontract. So that was - - -

20 They had been awarded the most work at Wollstonecraft, is that it?--- Correct.

Did you speak to anybody else at Downer prior to approaching Mr Nguyen?---Not, not that I can recall.

Did you think about speaking to anybody else at Downer, checking whether it was appropriate to approach a subcontractor to pay for the Christmas party?---No.

30 So you understood the Christmas party wasn't just for the Wollstonecraft project, didn't you?---Yes.

You thought it was 40 people on the whole TAP team, effectively?---Yes, yes.

Right. Why did you think it was okay to ask a contractor on a single TAP project to fund the TAP project's Christmas party?---From previous Christmas parties, having had subcontractors contribute to Downer Christmas parties.

40 But you didn't know that, did you?---That was my assumption at the time. I'm, I'm just answering the question towards - - -

You'd never been involved in approaching a subcontractor prior to this for funding a Christmas party?---No.

And had you seen a subcontractor at a previous Downer Christmas party attending?---Previous Christmas parties?

Yes.---From memory, yes.

10 You had seen subcontractors attending - - -?---From memory, I, I believe I, I did, yes.

This is Downer corporate Christmas parties we're talking about?---TAP Team Christmas - - -

TAP Team.---Not, not Downer corporate. That's, they had their own Christmas parties.

But the TAP Team within Downer?---Yes.

20

You recall attending Christmas parties where subcontractors were present? ---Yes.

And did you understand those subcontractors to be present on the basis that they had paid for the Christmas party?---Yes. That was my assumption at the time.

All right. Do you recall actually talking about that with any other people?--- I recall conversations around why are they there.

30

Right, yeah.---Because they had funded the party. That's, that's my recollection of it.

Who do you recall having those conversations with?---That's - I, I don't, it's five years ago. I remember those sort of snippets from that.

Do you recall speaking to other people after you'd made what you regarded as an agreement with Mr Nguyen to fund the Christmas party, do you recall speaking to other people on the Wollstonecraft side about, "Oh, RJS is going to pay for the Christmas party"?---I think so, yes.

40

And do you recall who you told about that?---It might have been the whole team that, “Okay, well, look, we’re having a, we might have a Christmas party and RJS are going to kick in for it.”

Right. Okay. And when you say the whole team, who are you referring to there?---So my engineering staff, my supervision staff.

Those who were working with you on the site?---Correct. The support functions.

10

Do you recall informing anybody who was supervising you about RJS kicking in?---No. No, I don’t recall that.

You don’t recall whether you did or whether you didn’t?---I, I don’t recall informing my direct supervisor, no.

It would have been advisable, having made an arrangement like that, to check it with your supervisor, would it not have?---I, I didn’t think of it at, at the time like that.

20

Chief Commissioner, I seek to tender and to have played an intercepted telephone call. It’s session number 20741. It’s a telephone call on 6 November 2020 at 13.58 and it’s call 1.2 in volume 21.6.

THE COMMISSIONER: Exhibit 290.

MS DAVIDSON: I believe 299, Chief Commissioner. No, it is 290. I’m sorry.

30

**#EXH-290 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 20741 ON 6
NOVEMBER 2020 AT 13:58:12 FROM LAURA INGLIS TO TONY
NGUYEN**

MS DAVIDSON: Thank you, Chief Commissioner.

THE COMMISSIONER: Thank you.

40

MS DAVIDSON: If that could be played.

AUDIO RECORDING PLAYED

[12.04pm]

MS DAVIDSON: Mr Gayed, Ms Inglis says that she's got Andrew on the phone during that telephone call. Is that you?---If, it could have been.

10 Do you have a recollection of hearing part of that telephone call?---My interpretation of that is that, Andrew on the phone having called her recently.

Well, she says at the bottom of page 1, if we can go to the bottom of page 1 of the transcript, "I am on the phone to him," and there does appear to be another male voice in the background.---I, I can't recall being on, on this conversation, no.

20 All right. Does listening to this call prompt your recollection of having a conversation with Ms Inglis in which you told her to call Mr Nguyen and ask him to pay for the Christmas party?---As, as per the evidence I gave, it was sort of, she wanted a boat party. I didn't really care. Once I asked Tony, and he sort of agreed it was, yes, it sort of ties in with the, "Well, you deal with it from here on."

30 Well, it seems as though from Laura's perspective, she understands, or she tells Mr Nguyen effectively that she's doing your dirty work. That's the language that she uses. Did you have a conversation with her about him, that is Mr Nguyen, being more likely to say yes to her than to you?---No, I think the conversation was, "Have you spoken to Tony yet?" And, "Can we finalise this?" And me passing it off and saying, "You can deal with it. I don't particularly care."

All right.

THE COMMISSIONER: Sorry, say that again. Who are you – is this a conversation you were having with Ms Inglis, is it?---With Ms Inglis. So her asking, "Where are you at with Tony?" and constantly asking for final details and - - -

40 So what, you said to her, "Have you spoken to Tony?"---I said to her, "Just take it up with Tony. Give, give him a ring." So - - -

Well, hold on, a moment ago when you were asked some other questions, you said that you don't, you didn't think you asked her directly but you assumed she would contact RJS.---I, it could have been either/or on that.

Well, it's one or the other, isn't it?---It's, I, yeah. My memory is not that great around this period of time, Commissioner.

10 Well, you recall what you said a few moments ago, don't you, when you were asked the question and you said you didn't think you asked her directly but you assumed she would contact RJS. You remember that answer?---
Yeah. It was an assumption that I had made.

And now you're saying that you asked her.---From, from this it seems that way, from this transcript.

All right. Thank you. Yes.

20 MS DAVIDSON: I suggest to you that you didn't just assume, you actually instructed her to call RJS.---I, I couldn't say yes or no to that.

And indeed you suggested the way that she might put it to RJS, that is that it might be put, as a request coming from you her doing your dirty work.---I, I disagree with that.

And that you suggested to her that Mr Nguyen would be more likely to say yes to her than to you.---I, I would also disagree with that.

30 If we go to the end of the - - -

THE COMMISSIONER: Just a moment. You heard that call?---Yes.

I'm just trying to understand whether you, listening to Ms Inglis speak, think that she was comfortable with what she was requesting?
---Commissioner, I think I'm interpreting it a little bit differently to, to what Ms Davidson is putting forward. I, like, I don't, I don't think she's saying she's doing my dirty work as in it's actually dirty work.

40 I'm trying to understand what you understood was the position of Ms Inglis, having heard that call, at the time that she was speaking to Mr Nguyen.
---My, my understanding of it is, and, and from what I can remember during

this period, was me being apathetic towards this whole Christmas party, her getting frustrated and picking up the phone and making a phone call. Whether I asked her to in frustration saying, "I don't want to deal with it" or whether I just assumed she would, that's, that's the way I sort of - - -

All right. Thank you.---Yeah.

MS DAVIDSON: When Mr Nguyen, if we could go to the last page of the transcript, says, "bye Andrew" that suggests that he understood that she was
10 acting very much as your mouthpiece, doesn't it?---If, if this was after I had the conversation with Tony, I, I can see how that, that's perceived.

Well, it's also because she had said that you - well, she said that Andrew, she said, "I was on the phone" or "I am on the phone to Andrew" and there appears to be a third voice in the background to that call, doesn't there?---I, I didn't pick up a third voice but I, I can't recall whether I was a part of this conversation or not.

All right. But you accept it's possible that you were?---There, there's a
20 possibility, yes.

And indeed given the language she uses it's likely that you were, isn't it?
---It's up to the interpretation but I, I wouldn't agree with that, no.

After this telephone call there was an email sent by Ms Inglis to Mr Nguyen copying you. Do you recall receiving emails on the subject of RJS's payment for the Christmas party?---I only recall them by the evidence submitted but not receiving them at the time.

30 That is by the evidence that you have heard in this inquiry?---And, and seen in the, in the files.

All right. Well, could we have volume 25.1, page 35 brought on screen? So you see down the bottom of the page here there's an email from Ms Inglis to Mr Nguyen saying, "As discussed over the phone" she refers to contract numbers - I'm sorry - purchase order numbers for the piling and station contract which is consistent with the discussion you heard on the telephone call was to the need to send those over and then there's a reference to the help we discussed and her waiting to hear back from Sydney Boat Hire.
40 You say you don't recall receiving this at the time. Does that encompass

this email as well, that is you don't recall receiving it at the time?---I don't recall reading through this no.

All right. What do you understand to have been Ms Inglis's reason for copying you on it?---I think because I had been the initial, initial contact and initial ask through RJS that she was I think in her mind trying to keep me in the loop.

10 All right. Well, it's also consistent with the version of events that has you on the telephone call and telling her what to say, doesn't it, that is she's continuing to include you on the discussion because you were really orchestrating all of this?---My evidence again is that I didn't orchestrate this.

20 Because she'd suggested in the telephone call that we just heard that "we've given you three contracts and you love us greatly." Do you recall hearing that? You agree that sounds like a kickback?---I think it sounds like it was said in, in a humorous manner as opposed to a kickback. I don't think the contracts, the contracts - - -

She's plainly asking for a payment in exchange for the contracts having been awarded to RJS, isn't she?---The contracts were already awarded. RJS can just turn around and say no. There's no consequence.

Well she's asking for that to be provided effectively in exchange for the award of the contracts though isn't she?---Well that's why I see it as, as a, as a humorous addition to lighten the question that she's about to ask.

30 It was a joke she talked about kickbacks was it?---I don't think she's joking about kickbacks. I think she's trying to lighten the mood because she's about to ask for a favour.

Right. But the kind of favour that she's asking for is a favour in the form of a kickback for the award of the contract. Isn't it?---Oh I would disagree like there, there's, it was optional. It wasn't a kickback.

40 Well I suggest that she was uncomfortable in relation to that and you can hear that from the tone that she uses in the telephone call.---I, I disagree that she was uncomfortable.

And indeed that the way that she was putting it was effectively following instructions from you.---It's my evidence again that I didn't even want this boat party.

You see at the top of this email at the top of the page on page 35 - - -?
---Yes.

- - - there's a further email copied to you on 10 November.---Yes.

10 Here Ms Inglis says, "Please note once payment for piling and station civil has been finalised I will advise you of expected payment date." Do you see that there?---Yes.

Do you agree that she appears there to be linking payment for the piling and station civil to the contribution for the Christmas party?---No I think she's saying that it's already been paid it's just being processed and, and here's some additional information about the boat party.

20 Well, "I will advise you of expected payment date" indicates that it hasn't been paid yet. Doesn't it?---Having been finalised indicates that it's been paid.

Well, "Once payment has been finalised I will advise you of expected payment date" plainly indicates that payment has not yet been finalised. Doesn't it?---I, I don't think they were tied together at all.

30 Well I'm suggesting to you that they are tied together by the placement of the two right next to each other in this email.---My suggestion is again that she's trying to sort of make light of the situation because she's asking for a favour.

All right. Had you suggested to Ms Inglis that she advise in relation to the payment to Mr Nguyen as a way of progressing the request for payment for the Christmas party?---No.

40 Did you have such good conversations with Mr Nguyen on the subject of, that is subsequent to these emails on the 6 and 10 November, subsequent conversations with Mr Nguyen on the site about paying for the Christmas party?---Not that I can recall.

Do you recall discussing with Mr Cox the question of payment for the Christmas party?---Initially no and then on, on the evidence that was presented to Mr Cox, yes.

All right. So where you say on the evidence that was - - -?---A phone call.

- - - presented to Mr Cox, you're aware of a phone call?---Yes. Between myself and Mr Cox.

10 Between yourself and Mr Cox. Could we have the transcript of Exhibit 84 brought on the screen. This is the telephone call that was played to Mr Cox.---Yes.

This is a discussion between the two of you in relation to some additional payment.

You see the discussion there as to what Mr Cox thinks might or might not be something that RJS is entitled to, then you indicate that it looks like that's moving towards a yes about four lines from the bottom. And then Mr
20 Cox says, "We should hear, that'll sort, that'll sort the Christmas party by itself," to which you say, "Good." He responds, "Yeah," and then you say, "I was going to say maybe you should have added an extra 10 on top." What did you mean by "I was going to say maybe you should have added an extra 10 on top"? That's a reference to the Christmas party, isn't it?---I believe so, yes.

So are you suggesting that what you planned to propose to Mr Cox was that he should inflate his invoice to cover the cost of the Downer Christmas party?---Yes.

30

And why was that?---It was a lapse in judgment at the time.

THE COMMISSIONER: Sorry?---It was a lapse in judgment at the time.

Well, let me understand this. This is a proposal by you to add an amount to an invoice for a Christmas party that you say you weren't all that interested in. Is that an accurate way of putting it?---I don't think so, Commissioner. I think I'm saying there I was going to suggest but there wasn't a suggestion in itself. And that's what I'm saying, there's a lapse of judgment in having
40 said that at all. I mean, he, he, he brought up the subject.

Yeah, but still it was a proposal referable to a Christmas party that you, on your evidence, suggested you were not all that interested in.---Correct.

Yes, thank you.

MS DAVIDSON: You plainly were concerned by this point - that is, the point of this conversation - to extract the payment from RJS for the Christmas party, weren't you?---It looks that way, yes.

10 And that would suggest you were certainly interested in it by this point?
---The only way I could put it is that I still wanted the party to go ahead for my co-workers but I still, my evidence is still that I was not interested in the party at all.

Right, but you wanted it to go ahead and you wanted to get it funded by RJS?---I wanted them to commit to them having agreed to it, yeah.

Right. Because you thought you'd previously reached an agreement with Mr Nguyen about it?---Yes.

20

Right. And by this point had Mr Cox - I withdraw that. By this point had Ms Inglis come to you and indicated she was having some difficulty extracting the payment from them?---From this conversation, it, it's, yes. I believe she did.

All right. Well, there's no reference to Laura in this conversation.
---Correct.

30 So why do you say from this conversation?---Because she, she was handling it after I said - well, assumed or whatever happened, and she was talking with RJS about it. So by this stage, by end of November, it obviously hadn't occurred so it must have been a prompt to see where we're at with it.

And you thought it was appropriate to suggest in response to Mr Cox's statement about taking care of the Christmas party - that is the payment taking care of the Christmas party - that in fact maybe he should have inflated the invoice. That was entirely at your initiative, wasn't it? That wasn't Mr Cox bringing up the subject of inflating the invoice.---Correct. It was a lapse in judgment at the time.

40

And in fact Mr Cox immediately responds, “Oh, at this stage I’ll be happy enough.”---Yes.

So it wasn’t ever his intention to inflate the invoice for that purpose, was it?
---No.

No. And so in fact by making that suggestion, or what you said was going to be your suggestion, that was reflecting and understanding that ultimately you thought it was appropriate for Downer to bear the cost of the Christmas party, albeit through RJS. Is that what your thinking was in making that proposal?---I don’t think I strung along too much of a thought process there. It was a lapse in judgment and shouldn’t have occurred.

Because it was plainly inappropriate for any invoice from a subcontractor to be inflated for the purposes of covering a Christmas party, wasn’t it?---Yes.

And contrary to the Downer policies in relation to bribery and corruption that you had been trained in?---Yes.

20 And would have involved the payment of public money for the purposes of the Downer Christmas party, wouldn’t it?---Yes.

Do you recall Ms Inglis, after this conversation with Mr Cox, following up with you further?---No, not that I can recall.

Can we have volume 25.2, page 13 brought on the screen? This is an email from Ms Inglis to you on 27 November, so four days after your telephone call with Mr Cox, saying, “Just checking in to see if there’s anything I need to do from my end for the boat or has Tony got it booked in et cetera?” Do you recall receiving this email from her?---Vaguely.

Do you recall whether you did anything in response?---I, I don’t think I did.

There’s no response from you, it seems, to this email. Do you recall having a conversation with her?---Not, not that I can remember, no.

All right. Could we have volume 25.1, page 39 brought on the screen? This is an email where Ms Inglis has not copied you but she’s effectively asking Mr Nguyen to give her a call seemingly in relation to the earlier email from Sydney Boat Hire about the Christmas party on 11 December. Do you

recall having any discussion with Ms Inglis around 30 November about following up with Mr Nguyen?---Not, not that I can remember, no.

Do you recall having any further conversation with Mr Nguyen about the subject of paying for the Christmas party around the end of November?---No, no. Not that I can remember.

10 Could we have volume 25.1, page 76 brought on the screen? This is an email that you're copied on on 2 December where Ms Inglis is asking Mr Nguyen to complete the form in the email before 7.30am on the morning of the 3rd. Do you recall having a conversation with her - well , do you recall receiving this email?---No.

She seems to be fairly anxious by this point in relation to actually making sure the payment goes in before a particular time.---The email would suggest that, yes.

20 Yeah. Do you recall having a discussion with her about the subject?---No. Not from, not from memory.

Do you recall why it is that the booking didn't proceed?---Yes.

And why was that?---The search warrants.

So you understood it to be the search warrants being executed?---Yes.

And how was it you came to that understanding?---I was told about the search, search warrants.

30 You were told about the search warrants?---Yes.

And in the context of you being told about the search warrants, who told you that?---Ben Vardanega.

Vardanega?---Yes.

Was that on the site at Wollstonecraft?---Yes.

40 Did he come to the site at Wollstonecraft?---Yes.

And said to you the search warrants have been executed?---Yes.

And how did that lead to the booking for the boat not going ahead?---The manner in which Aidan and Tony were acting onsite, it seemed like they were more interested in self-preservation than having a, a boat party at the end of the year.

Well, is that on 3 December or 2 December? When you say the way they were acting onsite, what are you referring to?---It was around that - I'm referring to after I was told about the search warrants when they came out
10 onsite.

Right. So - - -

THE COMMISSIONER: Sorry, what happened?

MS DAVIDSON: So they next appeared on the site?

THE COMMISSIONER: No, I'm sorry, I missed that last bit.---Sorry, Commissioner, when they next appeared onsite I think it was pretty close to
20 this timeframe, whether that week or that day. They - - -

But you said they were more interested in self-preservation.---The, that's, yeah. That's, that's what I sort of understood. I understood that there was search warrants and that they were no longer interested in having a boat party and they were more interested in, in trying to - - -

I see.

MS DAVIDSON: Did somebody say something to you? Did they say
30 something to you about not going to pay for the boat party anymore?---Not from memory. It was, that was just a, an assumption from my end.

So you say it seemed like they were no longer interested in having a boat party. What gave you that impression?---When, when they were on site they were, like I said they were very much more careful in their mannerisms and - - -

So it was their mannerisms that told you they weren't interested in having a boat party? I'm struggling to understand what you mean.---It's, it's hard to
40 sort of put it in context they weren't, they had the search warrants and, and

they, like I said they were just, they were worried about the implications as opposed to - - -

Did they say that to you?---No, again it was an assumption from my end.

All right. So did you go to Laura and say, “RJS is not going to pay for the Christmas, the search warrants have been executed”?---No I don’t, I don’t believe so no.

10 All right. Did you have any communication with her about having to not go ahead with the booking? Not being able to go ahead with the booking?---I don't recall no.

You don’t recall any conversation or - - -?---I don’t recall a conversation with Laura about that, that, no.

All right. Do you think that you might have or you simply don’t know?---I simply don’t know.

20 Did you have any discussion with Andrew Bedwani in relation to RJS paying for the TAP Christmas party?---I don’t believe so, no.

Did you have any discussion with Kevin Watters in relation to RJS paying for the Christmas party?---I can’t recall.

All right. Did you have any discussion with Kevin Brady in relation to RJS paying for the Christmas party?---I can’t recall that either.

30 Do you have any discussion with Karl McCarthy in relation to RJS paying for the Christmas party?---I can’t recall.

Had you ever approached another contractor in relation to asking them to pay for some form of, that is on the TAP projects, asking them to pay for some sort of Downer celebratory function?---Yes.

Yes?---Yes.

40 Was that in the context of Wollstonecraft or some other project?---In the context of “throw a barbecue on for us and put some drinks and we’ll do a toolbox” type of thing.

Right. So it was in the context of a toolbox talk and having some lunch put on and drinks?---And inviting the whole TAP team and yes.

Right. Would you agree that that's quite a different kind of a function to paying for a Christmas party on a boat?---I would disagree with it.

Did you understand what the amount of expenditure that was being proposed to RJS in relation to the payment for the Christmas party was?
---At the time rightly or wrongly I thought it was appropriate for their level
10 of, of subcontract that they had.

“Appropriate for the level of subcontract that they had.” What do you mean by that?---In, in the context of it so you're saying a barbecue's not the same as Christmas party?

Well so you thought a Christmas party was appropriate because they'd been awarded so much work they should pay for a Christmas party. Is that right?---Not that they should but if, if they are willing to would be appropriate to us. At the time that was my, my thinking.
20

Right. So if there was to be payment from subcontractors you thought there was some sort of graduated scale of what was appropriate depending on how much work they'd been awarded? I'm just exploring your understanding at the time, My Gayed.---No the, the thought wasn't fully formed like that, Ms Davidson. It was very primitive.

Well I think you've given evidence previously that your understanding in relation to some of the conflict of interest and other policies that Downer had in place was relatively basic as well so I'm just trying to understand
30 what it is that you say, you thought at the time about the appropriateness of asking them because it seems consistent with what Ms Inglis says about, “We've awarded you three contracts and you love us so much.” That's really the equivalent of what you were thinking isn't it?---Maybe I'm just that basic, Ms Davidson. I, I don't know how to put it together, like - - -

Well, it's not a question of basic or otherwise I'm exploring your understanding.---Well you're, you're calling me basic based on the anti-corruption training and now based on this Christmas party. At, at the time it wasn't, the thought wasn't, oh you know I'm colluding. Let's, let's go for
40 it. It was, I thought it was appropriate at the time and looking back at it I don't, I don't believe so no.

Do you recall after you'd spoken to Mr Nguyen, about paying for the Christmas party saying to anybody in Downer who was in a supervisory role to you that Mr Nguyen of RJS had agreed to pay for the Christmas party?
---Oh I don't recall doing so.

That's the examination, Chief Commissioner.

10 THE COMMISSIONER: Yes. There's no request for any examination or cross-examination by other parties?

MS DAVIDSON: I don't understand there to be.

THE COMMISSIONER: All right. Is Mr Gayed able to be discharged?

MS DAVIDSON: Yes, he is.

20 THE COMMISSIONER: Mr Gayed, that concludes your evidence. You are discharged from your summons and you're free to go.---Thank you, Commissioner. Thank you, Ms Davidson.

That concludes your evidence. All right. Thank you.

THE WITNESS EXCUSED

[12:35pm]

30 MS DAVIDSON: Chief Commissioner, there's some volumes to tender but we would seek a short adjournment prior to doing that.

THE COMMISSIONER: Thank you. All right. Well we'll take an adjournment.

SHORT ADJOURNMENT

[12:35pm]