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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 TUESDAY 18 APRIL, 2023

AT 2.00PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Yes, thank you. Mr Stanculescu, you're subject to the same oath you took at the commencement of your evidence to say the truth. Do you understand?---Understood.

Yes. Thank you. Yes, Ms Davidson.

10 MS DAVIDSON: Chief Commissioner, I tender two documents. The first is described as Mr Stanculescu's learner transcript provided to the Commission by Downer and the second is described as his proof of learning records. I think that would be, for the purposes of tender, exhibit 183 and 184.

THE COMMISSIONER: Yes. The learner transcript will be exhibit 183.

**#EXH-183 – VLAD STANCULESCU LEARNER TRANSCRIPT**

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THE COMMISSIONER: And the proof of learning, exhibit 184.

**#EXH-184 – VLAD STANCULESCU PROOF OF LEARNING RECORDS**

30 MS DAVIDSON: Thank you, Chief commissioner. The third page of exhibit 183 be brought up on the screen, please. Mr Stanculescu, do you recall receiving training in Downer's standards of business conduct? ---Vaguely, yes.

This is your learner transcript in relation to that training, or an extract from it, indicating that you received that training or completed it in August 2020, May 2017 and December 2014. At least the first two would seem to correspond with around the time you started your stints of employment at Downer. Are you able to explain why you recompleted that in 2020?---I'm not sure.

40

All right. Can exhibit 148 be brought up on the screen, please. Do you recall anything about that training, that is, the nature of the training in Downer's standards of business conduct?---Not specifically.

Right. Do you recall whether you attended it face to face or online?---I believe it was an online module.

10 Using the page numbers at the bottom, if we could have page 38. This is the document, it was a presentation that was standards of business conduct training that Downer supplied. There, the description of conflicts of interest, and then turning to the following page, there's reference or discussion of doing business with any, or "doing any business dealings with family members or friends and a requirement to disclose any potential or actual conflicts of interest to your supervisor or manager as soon as you become aware of the conflict." Do you recall the conflicts of interest aspect of this training?---Now that I see it, yes - not specifically, actually, to be honest.

20 Is that simply now that you see it you recall having done it at the time or - - -?---To be frank, I don't actually recall this slide, yeah.

Right. But you would agree that it states a pretty clear requirement in respect of disclosing conflicts of interest including by way of having any business dealings with friends.---Agreed. Yes.

And that wasn't a conflict you ever disclosed to Downer, was it?---That's correct.

30 Returning to the Muswellbrook pool upgrade, you indicated that you assisted in relation to preparations for the tender, or the preparations of the tender documentation. Can we have volume 12.1, page 120 brought up on the screen? This is a document or an email that's been sent to you from Adam at Dalski to you at your Downer email address in relation to a run through following a design meeting and how we sell new idea to principal. Do you recall this email?---No.

Do you recall participating in a design meeting?---Yes.

40 In relation to the Muswellbrook pool upgrade?---Yes.

Do you recall whether you attended that meeting physically or - - -?---I think there was one, at least one attendance where I, I went physically.

To Muswellbrook?---Correct.

Was that during working hours?---I don't remember. Very likely, yes.

Did you take time off from Downer in order to do that?---No.

- 10 Was it a period of time where you would have been expected to be working for Downer, that is to be at work performing your responsibilities for Downer?---Yes.

And this project had nothing to do with Downer, did it?---Correct.

Did anybody at Downer know that you were spending your time travelling to Muswellbrook to attend a design meeting?---No.

- 20 What was the basis that you thought you could do that?---My role is to, to deliver projects. I don't get paid by the hour so my justification at the time was that if I'm on top of my duties, which I was, that I could go and lend some help as part of this design meeting.

So was it your view that you could allocate your time during business hours however you wanted as long as you regarded yourself as being on top of your duties, is that right?---Correct.

- 30 And is that true of all of the work that you did in relation to the Muswellbrook pool project that to the extent you were doing it during business hours you regarded that as being acceptable to Downer?---Yes.

Did you check that with anybody at Downer?---No.

Did anybody at Downer know that you were spending time working with Dalski on the Muswellbrook pool project?---No.

What do you think would have been their reaction if they found that out? ---I'm not sure. I won't speculate on what they could have thought.

- 40 It's unlikely they would have welcomed that involvement with open arms, is it?---Ah - - -

All right. Well - - -

THE COMMISSIONER: Sorry, was there a response there?---No, I, I disagree. Yeah. I'm not going to speculate on what Downer might have thought.

MS DAVIDSON: Can we have the following page? This is an email from Mr Madew described as - well, I withdraw that. At the bottom of the chain  
10 is you sending an email to various people at Dalski in relation to something described as "Muswellbrook poo". I assume you mean Muswellbrook pool there.---Yes.

And breakdowns of various options and what we have or haven't allowed for and then Mr Madew responds to you in terms of what we will still be doing. Who is the we being referred to there in your email?---We, I am speak collectively on behalf of Dalski.

What was the basis on which you were able to speak collectively on behalf  
20 of Dalski in September 2020? Were you an employee of Dalski at this point?---No.

Were you a contractor to Dalski at this point?---No.

Were you a contractor in any sense to Dalski?---No.

Were you involved in the management of Dalski?---To some extent, yes.

At this point in September 2020?---Correct.  
30

What was the extent to which you were involved in the management of Dalski?---I helped to provide some guidance and some steering with regards to these projects.

And why were you doing that?---I found it interesting.

You found it interesting.---Yeah.

Did you consider whether taking an additional role on assisting the  
40 management of Dalski was something that you should have discussed with

anybody at Downer?---With the benefit of hindsight, yes, I, I acknowledge that.

Dalski had been prior to this and was intending to be in the future a contractor to Downer, was it not?---Correct.

And you were aware of that at all points?---Yes.

10 Did your involvement in the management of Dalski include attempting to obtain work for Dalski with Downer?---Yes.

So it was pretty obvious, wasn't it, that that involved a conflict of interest? ---Correct.

Not just because of your friendship with Mr Sensicle but because of the work that you yourself were doing?---No, I disagree.

20 You disagree. It was only because of your friendship with Mr Sensicle that there was a conflict of interest.---Well, initially that's how it started and then it became a broader conflict of interest.

Right, but it wasn't by this stage, that is, by the time you were involved in the management of Dalski giving guidance and general assistance in relation to winning projects, that wasn't simply a conflict of interest that arose through your friendship with Mr Sensicle, was it?---So was it, what was it, sorry, from my - - -

It was a broader conflict of interest, to use your term - - -?---Yeah.

30 - - - by this point, was it not?---Correct, yeah.

Right. Are you able to place the point in time when you became involved in the management of Dalski?---I, apologies, I don't know a specific time.

All right. Well, this is September 2020, early September. Would you say it was sometime before that?---I don't know.

40 We looked before lunch at the Flourish emails. That was in May 2018. You weren't involved in the management of Dalski at that point, were you? ---No.

No. Did it commence, are you able to say, at some point while you were working on the Kingswood project?---Just remind me again what the timeframes for Kingswood?

Well, I think the Kingswood project was extending through most of 2019. ---2019.

I, I can't place it. What I do remember though is that Muswellbrook pool was sort of the first significant portion of work outside of Downer that  
10 Dalski secured, so I think maybe at this juncture I became more involved, especially me putting forward people that would help with delivering that project, so - - -

Okay, but you weren't just putting forward people. You were yourself pricing projects and preparing documents.---Yes.

I think you've indicated tender documentation on behalf of Dalski.  
---Correct.

20 So you weren't just acting as a middleman. You were yourself involved.  
---Agreed. Yes. Yeah.

Yeah. Yeah. And that, that is that involvement with management, how did that come about? Was it a result of a conversation that you had with Martin?---No. There was no explicit conversation. It just sort of happened.

Right. Was there a time at which he said, "I need more help," or Mr Sensicle said that to you?---No, I don't think so.

30 Was part of the reason for you becoming involved in the management to help Mr Sensicle perform in his job or be perceived to be performing well in his job?---There will be parts of that, yes.

Right. You wanted to help him "get back on his feet" I think were your words.---Yeah.

So was assisting him with business, with gaining business for Dalski a way in which you could do that?---Correct.

And did that, well, is that what piqued your interest in this kind of work? You said you found this interesting?---I think the work itself, interesting, yes.

Right. Right. Was it interesting to you at this point, that is in 2020, to the extent that you were considering leaving Downer and joining Dalski?---No.

Was that a plan that you formulated later?---Yes.

- 10 Or an intention, I should say?---Never an intention. I didn't intend to change industries. When you're, you know, at the peak of your career, doing quite well, and in terms of the work that I did for Downer and my competency.

You regarded yourself in your project management work at Downer during the time you were doing it in 2020 and 2021 as being at the peak of your career, did you?---With the exception of my conflicts of interest and this situation - - -

- 20 Right.--- - - - I generally consider myself competent.

So you weren't considering leaving Downer at that point - - -?---No.

- - - that is in 2020 or 2021?---No.

Was it prior to the period of your resignation, do you recall starting to form an intention to join Dalski?---No. My, my intention was to take time off and spend with my wife who was about to have a child in March of 2022.

- 30 The child was born in March of 2022?---Yeah.

Can we have volume 12.1, page 125 brought on the screen? So this is you sending an email to somebody called Doug Bates asking him to assist somebody called Agnes at Dalski with the design, manufacture and installation of handrails for the Muswellbrook swimming pool upgrade. Was Mr Bates somebody who was a contractor to Dalski, do you remember?---Not prior to this.

- 40 But in relation - - -?---As far as I'm aware, sorry.



In relation to this project did he become a contractor?---I, I'm not sure. Possibly, yes.

And who was Agnes?---She is an engineer for Dalski.

So does this reflect you being involved in the management of the project once the tender was successful?---Yes.

10 That is management on behalf of Dalski rather than Downer?---This is more of making a referral between a contractor, Bellingham, and Dalski but, yeah.

Well, to the extent, can we scroll to the following page? This is an email a couple of days later and again you're seemingly giving, or making a request to Mr Bates. It indicated that you were certainly keeping track of what assistance Dalski required in relation to particular aspects of the project. Is that correct?---Yes.

20 And was that part of the extent to which you were involved in the management of Dalski in relation to this project?---Probably not. No. I, I couldn't tell you something specific but I, I, you know, on top of design advice and linking contractors I did, I did other activities. I would have done other activities, yeah.

Was all of that activity time consuming?---Yes.

Would you say you spend tens, hundreds of hours around this time?  
---Probably hundreds, yeah, hundreds.

30 On the work Dalski was doing?---Yes.

And you did that both inside and outside of regular business hours?---Not generally inside. My job with Downer was still very demanding but, you know, I obviously tried to do, tried to juggle both at the same time.

Well, that's what I'm wondering. How did you manage to juggle something that took hundreds hours when you were already holding two jobs, effectively, and responsibility for multiple stations with a lot of travel between them, by the sounds of things, at Downer.---I'm very efficient.

40 You were finding it very stressful though from your evidence?---It is certainly stressful, yes.

Why add to the stress by taking on an additional role in the management of Dalski?---I enjoyed the challenge, I enjoyed the work.

It was a challenge above and beyond what one person could reasonably bear, was it not?---That's your opinion.

In circumstances where you were finding yourself stressed by your Downer work, the reason for taking on more work and taking up more hours was what?---Sorry? Just - - -

What was your reason for taking on more work and taking up more hours? ---I enjoyed the challenge.

Did you expect that you would be remunerated for those hundreds of hours?---No.

Did you have any discussion in relation to remuneration for those hundreds of hours?---No.

Did you have any expectation or understanding with anybody at Dalski in relation to that remuneration?---No.

Did they ever, that is someone at Dalski, ask you the basis on which you were assisting in the management voluntarily?---We've discussed this outside of this forum completely before me finding out about ICAC and it's openly acknowledged by all that what I was doing was just lending a hand.

But you're not just linking people up at this stage, you're actually participating on behalf of Dalski.---Yes, yes.

Referring to yourself as being able to make decisions on behalf of Dalski. You would agree with that?---I wouldn't say make decisions. I'm not authorised and I wasn't authorised at the time to make this, these decisions.

But you were, in respect of for example tender clarifications, making decisions, you would agree?---I would provide input into tender clarifications, yes.

And direction to staff at Dalski?---Yes.

Right. Which is typical of the kind of input that a manager would provide.  
You said - - -?---Yes.

- - - you'd had discussions prior to finding out about ICAC, that is  
discussions with other members of management at Dalski, was it?---Yeah,  
we jokingly talked about how my support, you know, isn't remunerated or  
paid.

10 Right. Did they suggest they intended to remedy that situation?---No, and it  
hasn't been and it won't be.

You're remunerated now by Dalski though, are you not?---I am, yes.

Right. And when did that situation commence, that you were being paid as  
an employee?---I think January or February of last year.

Right. So that's the date that you indicated in your evidence you started  
working for them full time. Is that right?---Correct.

20 Okay. Did you regard those jokes as being, that is, the jokes at the time that  
you were performing these services voluntarily on your evidence as being  
surprising - - -?---No.

- - - that they would find that funny?---Nah, I find it funny as well.

You found it funny as well, but not so funny that you sought to do anything  
about it by obtaining some form of remuneration or making some  
agreement?---Nothing like that, no.

30 What was the reason for that?---I enjoyed the challenge.

Did you expect that in the future you would be able to join in the ownership  
of Dalski if you performed these services voluntarily?---Not at the time.

Was it something that you later discussed, that is, becoming one of the  
owners of Dalski?---Maybe not to that extent but yeah.

40 Maybe not to that extent but yeah. Can you explain what you mean by that?  
Having some financial interest in the company buying shares. Is that what  
you mean?---Maybe at some point in the future if the opportunity opens up,  
yes.

Was that a discussion that you've had with management of Dalski?---No.

Right, but that's your thinking on the subject, is it?---It's a possibility, yeah. It's a young company.

Well, it's a company that's in fact been around since 2003, is it not?---I'm talking in terms of its physical size, in terms of its turnover and what makes it an entity.

10

Right.---Not just how long it's been registered.

Okay, but so far as you're aware it's been trading since it's been established, has it not?---Yes.

Right. Could we have volume 12.1, page 127 brought on the screen. This is a series of emails in November 2015. The top one of the chain relating to testing results in relation to the paint. Do you recall why they would have been shared with you?---Not specifically.

20

All right. This is the subject line here, if we can scroll down to the following page, relates to removal of point and risk assessment, seemingly as to what was identified. Do you recall being part of those discussions? ---No, other than this email, what you've shown me now.

All right. Could we have volume 12.1, page 130. This is an email in relation to something that's referred to as "Mus 2" from Adam at Dalski and copied to you. Do you know what "Mus 2" was?---I think it makes reference to the animal shelter.

30

Was that a separate project?---Correct.

Right. There's discussion in relation to "a catch-up tomorrow" - if you see the last line of the email - "via phone post your get-together." Was that a get-together relation to the Muswellbrook pool project, do you recall? ---Possibly.

All right.---I'm not sure if it took place, however.

40 Were your regularly attending get-togethers or meetings in relation to the Muswellbrook pool project?---I wouldn't say regularly, no.

Okay. Could we have volume 12.1, page 132. This is an email sent from you. It's one of a number that are sent around this period of time from your Downer Group email to an email address that's contact@dalski.com.au.  
---Correct.

Is contact@dalski.com.au an email address that you used for your work at Dalski?---Yes.

10 And are you able to explain why you were sending a test email from your Downer email address to the Dalski email address?---I was helping set up their email system.

And so what was the purpose specifically? Was it just seeing that the email was received?---Correct, yes.

Were you also trying to test whether - well, if we scroll to page 133 there's another, if you continue scrolling down the page it seems to have continued and to also include, as you see from 135, Dalski emails going to your  
20 Downer Group email. This is in August now.---Yeah.

Were you attempting here to test the appearance of an email coming from Dalski to you at Downer and yet appearing to be from Dalski?---I was probably testing the format of the email signature.

In setting up the email system were you replacing something that previously existed?---I think migrating from one provider to another, yeah.

And was that something that you were asked to do by Dalski's  
30 management?---No. I think it was, there was a cheaper alternative and so that's what was decided, to go for a cheaper alternative provider for, for, for the website and for emails.

So was it your instigation, was it, moving to a cheaper provider?---I don't, I don't remember, yeah.

But you were the person who had carriage of that project and that migration, is that right, within Dalski?---To some extent, yeah.

40 Was there anybody else helping you with it?---I think with the website, Jack, Jack might have been involved, yep.

But did he assist with any of the other work that you did in relation to the changeover of the emails?---Possible but I, I can't say a specific thing.

Was Mr Bedwani aware of your relationship with Mr Sensicle?---Yes.

How was that?---In what sense do you mean?

10 Well, do you know how he became aware of that?---I might have mentioned it to him.

Do you recall what you said to him?---No.

Do you recall by what stage he would have become aware of your relationship?---No, sorry.

20 I think you indicated they were both guests at your wedding. It is likely they would have met each other or come across each other there? Do you know one way or the other?---At the very least as part of that, yes.

So at least by then?---Yep.

Which is, I think you said, February 2019.---2019, yeah.

And did you understand Mr Bedwani to know of Mr Sensicle working for Dalski?---I don't know that we talked about that, yeah.

He just knew that you were friends, is that your understanding?---Yeah.

30 Do you know whether Mr Sensicle, you'd indicated that he came onsite at the beginning of Banksia, do you know whether he would have come across Mr Bedwani on the site? Did you witness that?---I don't think so. Andrew, in his position, didn't have much time to come out to site. So, I don't think so.

40 In relation to the Banksia building project, or the Banksia building package, you were nominated in ARCUS as somebody who could edit the tender questionnaire. Was that something that was typical of the role of a project manager? That is setting up or being able to change within ARCUS what questions were asked of potential tenderers?---I'm not really sure. I, there was no real training or guideline on ARCUS, yeah.

You were also able to score responses that were received in ARCUS, that did reflect your role as project manager, didn't it?---Yes.

You were notified - well, do you recall being notified of the building package going out in relation to Kingswood? I'm sorry, I withdraw that. In relation to Banksia.---Notified in what sense?

I can show you a document. Volume 10.3, page 150. I'll have to check that.  
10 If we could take that down. Were you aware of an email being sent to you in relation to various contractors who the building package for Banksia was being sent to?---There might have been. I, I can't recall it.

All right. You'd indicated that you'd had discussions with Mr Pilli amongst others about Dalski being included in the building package tender - - -?  
---Yes.

- - - for Banksia. Do you recall a conclusion to those discussion in terms of them agreeing to include Dalski in that tender group?---I don't, I don't  
20 know. I don't think so.

All right.---I don't think there was a conclusion.

All right, but Dalski was invited to tender in any event for the building package.---Yes.

And did. Were you involved in the preparation of Dalski's tender for the Banksia building project?---Yes.

30 That is, you worked on the documents?---Correct.

All right. Did that include in relation to authoring an organisation chart for Dalski?---Yes.

And also a pricing schedule for Dalski?---Yes.

All right. In preparing the pricing schedule, that is, the price that Dalski put forward, did you have access to any document, that is, any budget documentation that Downer had prepared?---Yes.  
40

And did that, did you use that to assist in terms of pricing?---Yes.

That is to assist Dalski?---Yes.

Would you agree in doing that, you were acting contrary to what the procurement process was intended to be at Downer?---Yes.

Did you use Mr Sensicle's ARCUS user profile to submit Dalski's tender response?---Yes.

10 And was that throughout the course of the day that that tender response was being submitted, that is, you submitted multiple pieces of documentation using Mr Sensicle's profile?---Look, I, to be honest I don't remember. I've seen the ARCUS reports. Yes.

Right. So you've seen the extracts - - -?---Yeah.

- - - in relation to those. And certainly you don't dispute any of what the ARCUS report shows in terms of what Mr Sensicle's profile was being used on the day that those documents were being submitted?---I haven't  
20 interrogated them but I, I'm not disputing them.

All right. Do you recall submitting multiple documents using Mr Sensicle's user profile as part of Dalski's tender submission?---I remember submitting the second time but not four or five times. That's the one thing I don't remember doing.

Okay. I'm not, I'm not yet asking you in relation to alteration of the prices. I'm asking you in relation to the submission of documents such as organisation charts and the, and the pricing schedule - - -?---Yes. Sorry.  
30 Okay.

- - - that you actually uploaded them into Downer's system using Mr Sensicle's profile.---I don't, I don't remember that. I think that the initial submission was done by Jack, including the documents.

I'm sorry, including documents that you'd authored?---I think so, yeah. I think that first submission was done by Jack.

Right.---I think.  
40



Can we bring up volume 12.1, page 162. You'll see that this is - well, take it from me, this was a user profile that was extracted by Downer from the ARCUS system and includes a contact@dalski email address which I think you'd indicated was the one that you were using, and this is the profile that was set up for Mr Sensicle. Is that his telephone number or yours?---I think that's his, that's his number, yeah.

10 Right. Well, if we scroll to the following page, page 163, you'll see this is an extract in terms of the ARCUS user data and that on 6 October there's a number of - can you see at the bottom of the page there - - -?---Yes, yes.

- - - a number of steps recorded as being taken by both Jackson Sensicle and you. If we scroll to the following page, you'll see there's more of that in relation to documents being uploaded, summaries being saved and then documents put up, not only by Mr Sensicle and you, but certainly a number of those steps. If you have a look at the IP address that's in the right-hand column, do you see that both you - and if we can go back to the previous page you'll see that that column is the IP address.---Yep.

20 Both you and Mr Sensicle are using - well, the person who's recorded here as Mr Sensicle - - -?---Correct.

- - - are using the same IP address.---Correct.

Does that refresh your recollection in relation to - - -?---It does, yeah.

- - - you being the person who submitted those documents on 6 October?  
---Apologies, I must have, yes.

30 And what was the reason that you were doing that?---I don't know. Yeah, don't know.

Was it because effectively you regarded yourself as the person on behalf of Dalski who was responsible for preparing and putting forward this tender?  
---I can't imagine that I had an active thought like that. I don't, yeah, I don't think that it was that well thought out.

Okay.---Yeah.

40 Do you remember discussing with Mr Sensicle that you'd put the tender in? That is upload the tender documents?---Possibly, it's possible, yeah.

Right. He must have known that you were going to do it because he didn't do it, correct?---Correct.

Right. In the course of preparing the documents on behalf of Dalski, that is the pricing schedule and the other documents that you have agreed you prepared, did you discuss with others at Dalski the access that you'd had to the Downer budget documentation in order to prepare those documents?  
---Not explicitly but we would have had some discussion around me having  
10 visibility of those documents.

Right. And when you say you would have had some discussion, you've indicated to them that you thought you could secure their success by having visibility of those documents?---Not explicitly like that, no.

All right. But that was what you intended to do, correct?---Yes.

Right. And subsequent steps you took were also for the purposes of securing Dalski's success in relation to the Banksia building package?  
20 ---Yes.

Coming back to the following page, 164, you'll see the steps that you're taking towards the end of 6 October in relation to timing for the tender submission. And that's notwithstanding that a questionnaire had been locked in relation to other users. What did you understand to be the role of locking tender documentation within ARCUS?---I'm not really sure. Presumably it means it can no longer be edited.

Right. So do you recall changing the status in relation to - that is the status  
30 in relation to Dalski's documents within ARCUS from being submitted to unsubmitted in order to be able to revise them?---Yes.

And was that for the purposes of submitting a price that was lower than the price that had been submitted by Ms Arango on behalf of Mainland Roofing and Building?---Yes.

And I think you indicated you believed that you did that twice.---I think so, yeah.

Is that correct? So there was one occasion where that occurred in relation to the first submission of pricing and then it occurred subsequently later in October in relation to the revised pricing?---Yes.

Could we have volume 12.1, page 38 brought up on the screen? This is a graphical depiction from Downer's investigation report in relation to your conduct, indicating records taken from ARCUS and IP addresses associated with those. Have you seen Downer's investigation report in relation to this?---I, I have. I haven't read all of it but, yeah.

10

So in relation to the events of 6 October you will see on the right-hand side of that image the white columns, which are things that you're doing as you rather than things that you're doing with Mr Sensicle, that you change the tender close date at 5.18pm and then again at 6.15pm and then at 6.16pm you change Dalski's status from submitted to unsubmitted, following which, at 6.23pm Mr Sensicle, from the same IP address, and you see the IP addresses across the bottom, revised or submitted a revised price and then you subsequently change the tender close date to 7.30pm. Would you agree that all of those steps were taken by you, that is the steps that were recorded as being taken by Mr Sensicle as well as the steps that are recorded as being taken by you?---Yes.

20

And that that was for the purpose of enabling a lower price to be submitted, that is lower than Mainland?---Correct.

If we can scroll to the following page of this document, which is page 39 of Downer's report. You will see there in the image there's a pricing chronology and the steps that are taken on 22, 23 and 26 of October are recorded. Did you create documents - well, firstly, those occasions on which Dalski submitted a cheaper price, that is three occasions, would you agree that all of those reflect you having access to Mainland's pricing and submitting a cheaper price on behalf of Dalski?---Yes.

30

And would you agree that that fundamentally corrupted Downer's procurement process in relation to the Banksia building project?---Yes.

On 22 October - I withdraw that. Did you create documents that were used by Dalski or did you create documents on behalf of Dalski in relation to the tender clarification process, that is after the initial 6 October submission?

40

---Yeah, it's possible. Yep.

Can we have volume 12.1, page 211 brought up on the screen? This is an email sent by Mr Sensicle on 22 October to you attaching revised prices in relation to, well, something that's described as being following Downer meeting and Dalski discussion, notations for issue. We'll see those documents on the following pages if we scroll through. Do you recall preparing either of those revised documents?---I can't remember specifically, no.

10 If we come to page 238 of the same volume, 12.1. You will see here this is the metadata in relation to these documents and you will see that you're recorded as the last author of the "Final price rev 4 following Downer meeting" document.---Okay, yes.

Would you agree that that reflects you at least having the final authorship in respect of that document?---Authorship, yes.

That is others may have provided input to the content prior to that?  
---Correct, yeah.

20 And does that prompt any recollection?---No.

On page 239, the following page, this is an email submitted on 26 October from Mr Stanculescu to you.---Sorry?

I'm sorry, from Sensicle to you. The attachments there include a capability statement, current projects, a newsletter, a balance sheet, assets and liabilities and a P&L. Do you recall being the author of any of those documents?---I think, I think the capability statement, yes. I can't remember the other ones.

30

The metadata for the capability statement certainly reflects your authorship of that. Was that part of your preparation of documents, well, firstly, was that a document, the capability statement, that was specific to the Banksia project?---I don't think so, no. That was a very broad spectrum.

All right, but it wouldn't have been prepared other than in relation to, well, based on its date, it was certainly being updated or provided in the context of the Banksia project.---No, I don't, I don't think that that's necessarily, they're not necessarily linked, no. I don't think so.

40

All right. As in you prepared it but it was for generic purposes - - -?---Just for generic purposes, yep.

- - - of winning tenders, is that correct?---Yes.

And to the extent that you were editing it around 25 October, did you have any purpose other than the Banksia tender for preparing that document?---I think, I think there was quite a few tenders that Dalski was making at the time.

10

And were you involved in working on all of those?---No.

Right, but you were preparing it for the purpose of more than one tender. Is that your evidence?---Yes. It's the generic document.

Okay. There were then a number of emails in relation to the submission of prices. Do you recall receiving, that is, submission of prices by both Mainland and Dalski?---Yes.

20 Do you recall receiving those emails?---Vaguely, like, as in I know that there were email exchanges as part of the negotiations.

All right. So if we go to page 280, this is an email that's sent at 5.17 in the morning on 27 October to you from Mr Davidson who was the director of Mainland Roofing. Does that prompt your memory in relation to the kinds of emails that you were receiving - - -?---Yes. Yes.

- - - from Mr, well, from those associated with Mainland?---Yes.

30 And did you subsequently pass that information, that is, the final price on to Dalski?---Yes.

And that enabled a lower price to be submitted on behalf of Dalski later that same morning.---Correct.

And if we can go to page 283. This is the email from Mr Sensicle to Mr Hammond at 10.06am, so slightly less than five hours afterwards, in relation to Dalski's final price, which is the price that's reflected on the graphic that I took you to on volume 12.1, page 39, that is, the pricing chronology in the  
40 final report. Did you have a discussion with Mr Sensicle in that five-hour

period, do you recall?---I don't recall, but I don't think I did, actually, in this instance.

Right, but you would agree in this instance that you passed on to Dalski, maybe not Mr Sensicle, the lower price?---Yes.

Right. Do you recall who at Dalski you were communicating with in relation to that?---No.

- 10 It just happened to not be Mr Sensicle at that particular date?---It might have been Jack. It might have been Martin. I don't remember.

Okay. All right. Certainly it's Mr Sensicle sending the email at 10.06. ---Yeah. Yeah. I can see that.

Does that suggest that he must have - - -?---I think for all intents and purposes let's agree that that's the case. Yeah. I don't, I don't recall it but, you know, the, the timeline is the timeline.

- 20 Right. Right. So on each of these three occasions your involvement led to the procurement process being corrupted, that is, a cheaper price being submitted by one tenderer as a result of having access to the other tenderer's prices.---Yes.

And by this point, that is, to your knowledge, there was only Mainland and Dalski who were in the mix in respect of this project. There wasn't consideration simultaneously being given to some third tenderer, was there, not realistically?---Not realistically, no.

- 30 Right. Do you recall scoring Dalski and Mainland in relation to this project?---Vaguely, yeah.

All right. Do you recall scoring Dalski ahead of Mainland?---Yes.

Take it from you gave them a 92 and Mainland an 89. At the time that you were engaged in the scoring process, did you consider whether you needed to alert anyone else at Downer to your involvement in the preparation of the tender on behalf of Dalski?---No.

- 40 That is, you didn't turn your mind to it?---My mind did not turn to that, no.

Right. It should have, shouldn't it?---With hindsight, yes.

Even at the time, given the training you'd had, it was very clear that you shouldn't have been involved for Dalski in preparing a tender document, should you?---Agreed.

Right. Or in accessing Mainland's prices given your capacity as project manager?---Yes.

10 Was it by that point you were somebody who - this is October 2020 - you indicated you regarded yourself as at the peak of your career, somebody who was pretty highly competent in your job, right? And that included adhering to the standards that Downer expected of you, didn't it?---Agreed.

You were trying to perform in such a way as you would be commended by those who were managing you?---Correct.

Right. And at the same time you're engaged in this process on behalf of Dalski. I'm struggling to understand what your thinking was at the time.  
20 ---The logic was that Mainland didn't have experience or, and had never performed works of that magnitude for Downer, whereas Dalski did.

Had you worked with Mainland before?---Yes.

All right. And Dalski did, in your view, as a result of your involvement with the company?---Sorry?

That is your involvement with Dalski.---Can you - sorry.

30 You'd formed that view of Dalski as a result of your involvement with Dalski, is that right? Your involvement in its management.---I acknowledge that my conflict of interest judgment, clouded my judgment in that instance. However - - -

Right. You couldn't provide an impartial view in respect of Dalski, could you?---Agreed. Agreed, yes.

And in fact it hadn't been the case for some time that you could have provided an impartial view wearing your Downer hat in relation to Dalski,  
40 could you?---Possibly. However, Banksia is the only instance where that, that occurred.

Is it your suggestion that Banksia was the only instance where it clouded your judgment? Or Banksia was the only instance where you favoured Dalski?---Banksia's the only instance where my clouded judgment crossed over into, into my work with Downer.

Where would you say your clouded judgment commenced from?---I couldn't put a time to it.

10 Right. But certainly well preceded October 2020, didn't it?---Yes.

Did you also work with Dalski in respect of Dalski's potential hiring of a project manager in relation to the Banksia project?---Yes.

And what was your involvement in that?---Reviewing a CV.

Did you suggest that a particular person be put forward?---On behalf of Dalski, you mean?

20 Well, that a particular person be hired by Dalski.---No.

Right. So when you say you were forwarding a CV, I think that was your words.---No, I was, I was forwarded a CV.

You were forwarded a CV? That is by those at Dalski?---Correct.

Right. Could we have volume 12.2, page 22, brought up on the screen. This is an email from you to Adam and Martin at Dalski. I can show you the emails lower down on the chain, but you're asking there whether, that is  
30 he, Adam, and Martin can interview Kirilios next week. Do you recall receiving this email?---I can't even remember. I don't remember the name Kirilios or the emails, no.

Okay. That seems to reflect more than being sent a CV but actually asking them to take steps in relation to hiring somebody.---Agreed, yes.

Right. And does that again reflect your involvement as part of the management of Dalski at this point in relation to hiring staff who'd be appropriate for this project?---Yeah, I was, I was putting people forward for  
40 it, yeah.



Right. In the course of the Banksia project, did you continue to assist the management of Dalski as to the progress of the project?---Correct, yes.

And what was your involvement in that?---Assisting them with planning for critical scope, general, just general engineering aspects and, and I, I don't really know how to answer this question, I'm sorry.

So is it fair to say that throughout the project you were assisting them to ensure Dalski's capacity to perform the project?---Correct.

10

And in doing that you were furthering Dalski's interests, is that correct?---It would appear that way, yes.

In relation to variations on the project?---No.

Did you have any involvement on those on behalf of Dalski?---I, I did have involvement, yes.

On behalf of Dalski?---On behalf of Dalski.

20

So when you said no what were you intending to indicate by that no?  
---Maybe I jumped the gun. I'll let you ask the questions.

Well, you had said that on behalf of Dalski you did have some involvement in variations.---Correct.

Was that in advocating for variations, identifying variations, what were you doing on behalf of Dalski in relation to the variations?---For the more, most part it was rationalising variations.

30

Rationalising so that they would be able to be approved?---That they were genuine.

So that is that you, with your Downer hat on, could approve variations that were submitted by Dalski, is that correct?---Correct, yes.

Would you agree that that too represented a conflict of interest?---Yes.

Did that happen on multiple occasions?---Yes.

40

Is it the case that without your rationalisation, that is what was provided by you to yourself effectively as approver, those wouldn't have been able to be approved or were you the ultimate approver anyway?---That's a hard one to answer. I, a lot of the variations would run through our monthly reviews. So they were, they were vetted by my managers.

10 So it was important that they had rationalisations that were convincing so that other people, even if they weren't ultimately approving the variations, could see that there was something behind them at the meetings, is that right?---Correct. They have to be genuine variations for them to be approved.

And were they genuine variations?---They are, yes.

And were you, on behalf of Dalski, involved in inflating the prices for any of those variations at Banksia?---Never, no.

20 To the extent you say they were genuine variations, they were work that Dalski regarded as needing to be done or as Downer regarded as needing to be done? And I realise it may be difficult in your own mind to draw that division.---There's both instances where there were variations due to scope clarity and then there was variations due to additional scope that was never put forward as part of the building package.

Were you involved in drafting the scope for the building package at Banksia?---Yes.

30 So did you regard it at the time that you drafted it as being one that was superior to, I think you indicated the package at Kingswood had some deficiencies in your view?---Significantly more, much more improved, yeah.

But notwithstanding that there were still some deficiencies in it, is that right?---Correct. I'm happy to elaborate on some specifics if that's allowed.

40 Yep. Yep. What were the deficiencies that you regarded as leading to variations in the Banksia building package?---We had to carry out some asphaltting and, on one of the streets, and this was scoped, it was never anticipated by the, by the project in its entirety. We did not anticipate having to do that at all and we secured, Downer secured a price from Bayside Council and I discussed that price with the commercial manager,

Amit Patel, and it was, I was directed to engage the builder, as he was, the buildering being Dalski, to, to perform that work as a variation because of the onboarding process and setting up contracts with, with new companies at this stage of the contract.

So it was a time pressure issue?---Correct.

Was that coming towards the end of the contract?---Yes.

10 That is coming towards the end of the project I should say?---Towards the end of the project, yeah.

Were there other variations that were in that category?---There, there would have been, yes.

All right.---But I, I can't recall another. That was a significant, that was a significant variation.

20 Okay. You'd indicated that there was some in both categories, that is, the category of things that Downer regarded as work that needed to be performed and in the category of variations that Dalski regarded as needing to be performed. There was no way in your Downer capacity that you were likely to push back on variations that had been indicated by Dalski in relation to this project, was there?---Although my, my judgment might have been clouded at the time, I would say that I still had a vested interest in seeing Downer's P&L succeed.

Right.---So I wasn't going to jeopardise the project for something that was non-existent.

30

But you weren't interested in the overall state of Downer's P&L were you? You were interested in not being seen by the superiors reviewing the variations or vetting the variations, to use your words, as then not identifying unjustified variations, correct?---Sorry. You're going to have to

---

40 What I'm suggesting to you is in relation to the variations, it wasn't just that your judgment was clouded. It was that you were fundamentally conflicted such that you were always going to approve the things that Dalski put forward, correct?---There were a large number of variations that were rejected.

By you?---By me, yes.

And what was your thought process in relation to those?---Well, I didn't lodge every single variation from Dalski's side.

Right.---And there were variations that I disagreed - - -

10 Were they variations that were put forward to you at Dalski, that is, in your Dalski capacity first before you came to consider them in your Downer capacity?---No. No.

Right. So there were other people at Dalski putting them forward to you. Is, is that right?---Correct. Yeah. Yes.

And in having discussions with them in relation to the variations, how did you manage the two hats you were wearing? It was impossible, wasn't it? ---Impossible to achieve what, sorry?

20 Impossible for you to be simultaneously serving both Downer and Dalski's interest. You were hopelessly conflicted, were you not?---There was definitely conflict there, however, I was always driven by doing the right thing financially by Downer.

Doing the right thing by whom?---By Downer.

30 But you weren't, you hadn't been doing the right thing by Downer in serving Dalski's interests in relation to this project in the tender process, had you?---Agreed. Yes.

So how were you suddenly in the variation process doing the right thing by Downer?---My justification was that on a, on a, on a budget of roughly \$2.5 million that Downer saved in the order of eight or \$900,000 just from awarding the works in the manner that we did.

Right, but awarding the works in the manner that you did involved awarding them in a corrupt manner, did it not?---I've already acknowledged that, yes.

40 Right, so you justified it to yourself by that means.---Yes.

Right, and did you continue to justify it to yourself, that is, the way in which you approved variations, using the same logic?---No.

All right. So what was the logic that you were applying in considering requests that were made by Dalski for variations?---That if variations are lodged with Downer they have to be genuine.

Right, notwithstanding that you were helping to - - -?---Yes.

10 - - - write the justifications for those?---Agree, yes.

So the ones that on your evidence you rejected, you didn't help write the justifications for those ones?---If I rejected them, then no.

Right. There wasn't a process by which things that you rejected you then assisted in redrafting justifications and they came back to you?---No.

20 Was there some division within Dalski that enabled that to be the case? How did you identify which ones you were going to assist in drafting the justifications for and which ones you weren't?---It was ad hoc at best.

All right. Right. So the ad hoc nature of it indicated the continuing nature of the conflicted situation you were in, didn't it?---Yes. I agree.

30 Right. So there was no way of knowing from Downer's perspective, that is, from the perspective of those vetting variations, whether what was coming forward was things that you'd been involved in drafting the justifications for or not?---Other than I wouldn't have approved something that wasn't genuine on behalf of Downer.

Right. Well, I'm suggesting to you that in your purpose in drafting or assisting Dalski in drafting justifications was to cover your tracks because you knew those variations would be vetted, is that right?---That's a very broadbrush view of the world but that's one interpretation, yes.

40 Well, I'm suggesting it's not an interpretation. It's also an accurate statement of your purpose.---But another accurate statement is that should you review those variations as they are now on their merits, for better or worse, despite my conflict in judgment, they would still be measured as fair and reasonable variations. And I will stand by that.

The merits of the variations must include the process by which they are obtained, must it not? You'd agree with that in terms of Downer's statement of business practices?---Correct, yes, agreed.

And Downer's statement of business practices would indicate that conflicts of interest should always be disclosed and addressed, presumably by a manager?---Agreed.

And that would have been, in your case, Mr Bedwani - - ?---Yes.

10

- - - who would have been the direct person?---Correct.

Did you recall any discussion with Mr Bedwani during the Banksia project in relation to Mr Sensicle or Dalski's involvement?---Not specific conversations, no.

Did he ask you how it was going or anything along those lines?---He might have in passing.

20 Right. And do you recall what kind of report you would have given to him?---What, on, on a question around - - -

On Dalski and how Dalski's progress was going on the project.---No.

30 Right. Can we have volume 12.9, page 22 brought up on the screen. This is an email from you using your Gmail address to Mr Sensicle in April 2020 in relation to a new tender at Penrith Council, and you're saying, "Let's pump it." You're using your Gmail address here. A number of the other emails we've seen involving you and work that you were doing for Dalski were sent to and from your Downer email address. Did you draw any division in relation to when you used your Gmail address and when you used your Downer email address for Dalski communications?---No, I think it's what was coming up when the email system recommends a contact.

Right. You weren't concerned by Downer seeing things on your Downer email that related to work for Dalski?---I can't say that that thought occurred to me, no.

40 Right. Would you say that by April 2020, when you're saying, "Let's pump it," to Mr Sensicle in relation to the Penrith Council tender that you were involved in the management or working in the management of Dalski by

this point?---No, I just, I think that's just what it is, "Let's pump it," go for it.

All right. The "let's" implies a collective, doing something together, though, you'd agree?---Yes.

Right. So you're referring to you as part of Dalski or the Dalski endeavour at that stage?---Yep.

10 Right. Could we have page 24 of the same volume. This is in May 2020, an email from you to Martin and others at Dalski. You're making an edit in respect of Google Maps at this point and you've been referred to being confirmed as the manager, and then you refer to "We can update some details and go on there to improve the visibility of Dalski. I just did a quick search and Dalski has one star. Anyone who's considering our tender will likely check Google and we'll like need to do something to improve the stats."---Yep.

Do you recall this email?---Only from seeing it.

20

Right. It's referring to people "considering our tender". Do you recall what that tender was in May 2020?---I think, I think this is just a general a very broad statement, "tender" or "tenders", yeah.

Okay. You don't think you're referring to a particular tender?---No, I don't think so.

Right.---That's certainly not why the details were being updated. They weren't being updated just for one tender.

30

No, I'm not suggesting that.---Yeah.

I'm just trying to place this email in respect of your involvement. Would you say that by this stage, that is by the time you've been confirmed as the manager for Dalski, in respect of edits to Google at least that you had taken a role in the management of Dalski?---I think this is fairly consistent with my other emails, sending IT support confirmations. So, you know, setting up emails, changing addresses on the Google listing or the company name. It's consistent with that.

40

But your engagement in the management wasn't confined to that, was it?  
---No.

No. Could we have page 30 of volume 12.9. Here you're emailing other people at Dalski in relation to getting everyone on a consistent email signature block, and you're asking them to action that. This is July 2020, and you refer to having a to-do list. Do you recall what that to-do list related to?---No, no.

10 Would it have been various tasks to do with the management of Dalski?  
---Things like these, yeah.

Things like these as in email signatures?---Yeah, things like that.

20 Could we have page 34 of the same volume. This is September 2020, at which point I think you've agreed that you were engaged in participating in the management of Dalski. This is from Mr Sensicle. It relates, at least in the subject line, to an invoice from AUSCON Kitchens and Joinery. You were asked to run your eyes over. If we scroll to the following page and the following page after that. There's an email from somebody called Bing at Ssinc Kitchens, sending revised drawings for a kitchen. Do you recall what this related to? Were you regularly by this point - that is September 2020 - being asked to run your eyes over drawings and approve drawings? Because if we go back to page 34, I see your response is "Looks like the go," or "Looks the go now. Let's press the button."---It would seem that way but I, I don't really remember this or what it, what job it relates to or anything of that sort.

30 Okay. But it seems to reflect you giving an instruction to Mr Sensicle.---I think it's more of a buy-in rather than me being the authority on, on approving it.

Well, "Let's press the button" suggests that you're giving an approval, does it not?---It suggests.

Right. You're not - - ?---It suggests, it's not directing.

40 - - - you're not asking him to seek approval from anybody else, are you?  
---He's asking for an opinion. I've given him my opinion, which is go ahead.



Right. But that's consistent with a management task in relation to Dalski staff, giving them direction or approval?---Yeah, correct, yeah.

Was that something that you were regularly engaged in by September 2020?---Probably, yep.

Right. At page 53, the same volume, 12.9. This is an email you send to Mr Sensicle in October 2020. It seems to relate to digitising of council records. And you say, "I reckon we can engage Flourish and make a margin on it. If  
10 it works out, we use profits to set up a scanning station and go for this work ourselves." Do you recall this email?---No, no more than just seeing it now.

All right. Is Flourish the company that your mother worked for?---Correct.

Did she still work for it by October 2020?---I think so, yeah, yes, yes, sorry.

All right. Did it have capacity to be involved in digitising of council records?---Sorry, say again.

20 Did it have - do you know what Flourish did? Did it have capacity to be engaged in digitising of council records?---I think so, yeah.

Right.---I think they do that, yeah.

Did you - well, Dalski was a construction company, wasn't it?---Is, yes, they are.

Is. What would have been the basis on which you would have thought that it might have set up a scanning station and got involved in digitising of  
30 council records?---I think this is, if I can recall correctly, I think this is a side, like, a side thing. Like, here's an idea, let's set up a scanning station.

Right, okay.---Like, it's not, it's not primarily - - -

It's not the core business of Dalski?---It's not the core, core business of Dalski, yeah.

This is something that you and Mr Sensicle were thinking about engaging in on the side perhaps?---I think we explored it and I don't think it - well, it  
40 hasn't gone anywhere.

Could we have page 76 of the same volume? Here you're sending an email to Mr Sensicle and others on 7 November 2020 saying that you think that they should find a system, it's in relation to a website for inductions that relates to - or that does integrated management compliance training records, company inductions and training modules and then you see you're speaking to a guy about a thing on Monday. Does that reflect your involvement in making plans for Dalski in relation to compliance, training records, inductions and training modules?---Yes.

10 Did that planning go beyond IT systems for that?---No, I don't think so. No.

Certainly you were aware of the need for systems to be in place for those kinds of areas at Dalski?---Yes, yes.

Did they have those systems at the time?---They had rudimentary systems.

So part of your involvement, was it, was making them more professional in relation to those systems?---Yes.

20

And that included beyond the IT aspects of it, that is induction and training and other things that they would need to do?---Well, no, because that's not really my, that's not really my area.

But again, does this email reflect your involvement in the management of Dalski, that is making decisions as to resources that it put towards, or making suggestions at least in relation to resources it should put towards having those kinds of systems?---Definitely making suggestions, yes.

30 Did you have an approval role in relation to selecting systems for those areas?---No. It all had to be run past Jack or Martin.

Was Jack making decisions on behalf of Dalski in relation to approval for these kinds of systems?---I think the, I think the decision or the approvals were, were made by Martin at some point, yeah.

Jack was never a director of the company, was he?---No.

40 Page 79 of volume 12.9. This is an email signature block for you referring to yourself as being in construction services for Dalski.---Yes.

What was the sense in which you were in construction services for Dalski?  
---It was just a generic, generic title.

Do you agree that represented you to the extent you used that email address as being an employee of the company?---Of course, yes.

And that was the intention?---I don't think I had that kind of intention. It was an email set up for communication predominantly internally within, within Dalski. I seldom ever sent emails externally.

10

But you did send emails externally on behalf of Dalski, didn't you?---Not that I can recall.

You certainly used the contact@dalski email address to send emails externally, is that - - -?---The, the contact email address is one that's shared between Jack and I and it's predominantly used for receiving, when you subscribe for tender platforms and you get notifications of work. So it's predominantly just full of tender opportunities that Jackson reviews as part of his BD role so that it doesn't clog up his main email.

20

But you did use that email address to send emails as well?---Correct, yes.

And you did also use this email address, that is the email address with this signature, for the purposes of sending emails, albeit you say that you didn't do that frequently?---I don't, yeah, I don't think I did it frequently, no.

Can we have page 96 of volume 12.9? This is an email initially from Mr Cooper of Simpro to Mr Sensicle in January 2021, and then Mr Sensicle replies the same day indicating that a run through with Vlad would be good as well. Seems to relate to a system called Simpro and an implementation deal. Do you recall this?---Yeah.

30

What was the context in which Mr Sensicle might have wanted a run through with you to occur?---I think this is a utility software for, for systems, not too dissimilar to the previous email.

All right.---So this is the next phase of that is actually looking at specific products.

40 Right. So this is in relation to systems for training and induction?---Things like that, yes, I believe.

Okay. And did you spend time on that in December 2020 and January 2021?---I think, I think this one died a natural death. I don't think we explored it much.

That is this particular product or this particular contact from Mr Cooper, is that right?---Correct. Yeah.

10 Were there other contacts that you were pursuing with other software packages on behalf of Dalski at the time?---Yes.

Right. And was that, well, did that reflect you making a recommendation that would ultimately be approved to Martin in relation to the software packages that you were considering for training and induction purposes? ---Correct.

And did you ultimately make that recommendation?---I don't think we found a piece of software that suits the needs of the business fully.

20 Right. So it's something you're still engaged in.---Yes.

Could we have page 101. This is an email from Mr Sensicle in January 2021. If we scroll down to page 102, you'll see it relates to a corporate booking at the NSW Gun Club for February 2021.---Yes.

And there appears to be a lunch being organised as well as a session where temporary licenses would be required. Do you recall having discussions with Mr Sensicle about Dalski staging a corporate, well, having a corporate booking at the NSW Gun Club?---Yes.

30 Was that for the purposes of business development?---I'm not really sure what the context of that was.

Right.---It was - - -

If we go back up to the previous page, Mr Sensicle says to you and to Martin, "Are we going to lock this in?" And Mr, well, and Martin says, "I'm okay with it," and you then say, "I too am okay with it."---Yep.

40 Does that prompt your recollection in relation to what it related to?---I think it was a day at the gun club shooting guns.

Right, for Dalski's clients?---No. No, for Dalski and Dalski-related people.

Dalski employees.---And partners or friends who also came.

Right. The approval seems to be then given there by both you and Martin, do you agree?---The approval here is around the date I think.

10 Well, how are you able to indicate that since the question is a general one?  
---From my recollection of it.

All right. It certainly seems to reflect, does it not, Mr Sensicle thinking he needs approval from both of you? Why did he think he needed your approval? Do you have any understanding of that?---I think he's running it past us in terms of timing, possibly dollars as well, but overall as, as he's, what he's proposing and we're saying, yeah, we're happy or we're not happy with it.

20 All right. He's treating you in an equivalent way to Martin, is it not, as a  
director?---It would appear that way, yes.

And is that how he regarded you, to your understanding?---No, I don't think so.

Right. So are you able to throw any light on why he would have done that if you weren't effectively acting as a director, albeit not formally, of Dalski by this time?---I guess inclusiveness.

30 Inclusiveness.---Yes.

Is it because he regarded you as equivalent in the senior management to Martin at this point?---No, I don't think so.

That's the inference one would draw from the email, though, isn't it?---I'll let you draw that but my statement is that it's, that's not the case.

40 Can we have page 105. This is Adam, the operations manager, with whom I think you indicated you'd worked at Downer, asking you to populate the Banksia claim. That is seemingly a progress claim in relation to Banksia.  
What was the capacity in which you were populating progress claims in

relation to Banksia for Dalski?---Summarily it would have been what, what can be reasonably claimed as work complete.

Right. Was that for the purposes of claiming the maximum on Dalski's behalf?---Claiming what was reasonable and appropriate.

Right. You were ultimately going to be approving those progress claims in your Downer project manager capacity, though, were you not?---Correct. But I also get, I also get reviewed on those things myself, so they had to be reasonable.

Right. So again is this like with the variations, that your role in populating the claim was to assist in making sure there was as much justification for it as you could think of so that if those at Downer reviewed it, it would pass muster? That is those other than you at Downer.---They would have to be reasonable.

It wouldn't, that is it couldn't have been approved at Downer unless you - by others - unless you at first approved it, is that not right?---Correct.

As project manager.---Yes.

So again - I'm sorry, Chief Commissioner.

THE COMMISSIONER: So I just wanted to know, at this point whose interests was it that you felt you were advancing?---Both.

And you saw no conflict?---I did see a conflict.

You did but you still - - -?---Now I do, sorry, apologies, Commissioner.

Well, what is it that you see now that you didn't see then?---My justification at the time was to get a, a contractor that I had rapport with to deliver a job that I was on for the lowest price and, you know, prove to my peers that Dalski is not this - - -

But this isn't about that. This is about you making a claim, isn't it?---Okay, so, sorry, can you ask that question again, please?

Well, this is about you making a claim. Whose interests was it that you saw yourself advancing? Was it Dalski or Downer's when you had to consider

this particular task? See, on the one hand you were making the claim. On the other hand you're the party entrusted with the responsibility for processing it. Is that not the case?---Correct.

And you acknowledge now that you see a conflict of interest. What I'm not following is what you see now that you didn't see then.---I, I thought that if my assessments were reasonable on both sides that, that it was fine. I thought that if I measured things accurately and in a manner that is disciplined that, you know, if I'm approving a dollar and it's worth a dollar,  
10 then it's a dollar.

Do you know of any other aspect of your life where you're comfortable acting in a similar manner?---I can't think of anything on the spot.

At this point it must have been fairly obvious to you that there was a real problem.---I was conflicted, yes.

But you still went ahead anyway?---(NO AUDIBLE REPLY)

20 You're nodding.---Yes.

Right, thank you, yes.

MS DAVIDSON: There wasn't any other contractor during your time at Downer that you'd ever treated in the way that you treated Dalski, was there?---Not to that extent, no.

Was there to a lesser extent? That is that you'd had some involvement in the management of the company and at the same time were contracting with  
30 them?---No. No.

So when you say "not to that extent", what are you referring to?---I've always been a big advocate of supporting smaller contractors through guiding them or softening their entrance into working for companies like Downer.

Right. But this went well beyond that, did it not?---Yes, agreed.

40 Can we have page 110 of the same volume. This is an email from Peter at Dalski to you in February 2021 referring to a meeting that Peter had had with you on 19 February in relation to the Primrose Park tennis court

refurbishment and a tender for that. Do you recall attending that meeting?--  
-No, no.

Do you have any reason to think that you didn't?---Oh, but there's no reason  
for me to suspect that. This is, yeah, I just don't remember the meeting,  
yeah.

Right, sure. Did you have involvement in preparing tender documents on  
behalf of Downer in relation to the Primrose Park tennis court  
10 refurbishment?---I didn't know that Downer went for it.

Sorry. On behalf of Dalski. I withdraw the reference to Downer.---Oh. I, I  
can't, I can't recall.

Was it the case that in 2021 you continued to work with Dalski in respect of  
the preparation of tender documents for projects that it was engaged in?---In  
some limited fashion, yeah.

When you say in some limited fashion, did it continue in the same fashion  
20 as you had been engaged in it in 2020?---Ad hoc, yes.

But your engagement was constant, that is your involvement with Dalski  
throughout 2021 was constant, was it not?---It was as required, yeah.

But there was never a point where you stepped back or ceased to be engaged  
in the management of Dalski in the same as you had been?---Oh, there, there  
certainly was, yeah. So, you know, as Dalski took on more people and, and  
delegated certain activities then there was no need for me to do those things.

30 So it became less intense during 2021, did it?---Yeah.

And did Dalski hire people to take on responsibilities that you had  
previously been engaged in?---Yes.

And do you recall when that was?---No, not specifically. I could find out if  
you really wanted to but, yeah.

I don't think we need to be specific in relation to it. But would you agree  
that your involvement or engagement continued throughout that calendar  
40 year, that is up until the time that you resigned from Downer?---Ad hoc,  
yes.



Can we have page 115? This is an email that was sent to you in March 2021 from Adam. It relates to comments from Mr Madew in relation to an invoice assessment. He's provided some comments in red and Adam is sending an email to you asking questions in relation to why he's not responding. Do you know why you were copied on this email?---No. I don't, I don't know.

10 Do you recall engagement in discussions as to whether Mr Madew should be paid?---Yes.

What was the nature of your involvement in those discussions?---So in this instance I think there was a, a dispute around how much Mr Madew would get paid.

Does this relate to the swimming pool project?---Yes.

That's the Muswellbrook project?---Correct.

20 Right, there was a dispute about it and what was your engagement in that dispute?---I think we worked through the terms of his engagement and in the end it was agreed to pay him what he was asking to be paid.

When you say that's we, that's you on behalf of Dalski doing that working through?---Well, no, I, you know, Adam, Adam and Martin were, were actively managing Mr Madew at the time. It's just that I introduced Mr Madew to the business. So that's probably why I'm being copied into this email.

30 But were you also part of the contractual discussions? Was Mr Madew a subcontractor to Dalski?---Yeah. He was a subcontractor.

And were you involved in engaging him as a subcontractor?---Yes.

40 If we scroll to page 116 you will see that Mr Madew- well, from the previous page you can see Mr Madew's comments are in red. So he's responding to an email that's been sent by Adam. He's commenting in relation to item number 1, "Why was the project manager not privy to this additional cost? Why did you not provide comment and interrogate the numbers each month? Not Adam, Vlad or Jack gave any comment on any of the monthly reports. I asked Adam what he wanted and G" - it should be

“he”, I assume - “just did not respond.” Were you involved in monitoring Mr Madew’s monthly reports on behalf of Dalski?---Not exclusively, but, yes, I had some involvement.

Right. And what was the reason that you had that involvement?---Again, it’s part of my assistance to them that I was giving.

Right. Part of the role that you were taken on for them in management.---I guess so, yeah.

10

Similarly, number 2, there’s a reference to a project bonus when PC was achieved, that is, this is what’s being put to Mr Madew, but amendments were never agreed by Dalski, and Mr Madew’s response is, “It was agreed with Vlad and put in writing and signed by me.” Did you have authority on behalf of Dalski to agree project bonuses for Mr Madew?---No. No. That’s, at the end of the day that decision sat entirely with Martin and that contract was drafted by me but it was ultimately approved by Martin.

The contract was drafted by you.---Yeah.

20

All right. So you put forward to Mr Madew the area of a project bonus. ---He asked for it.

Right, but you agreed with him.---I didn’t agree with him. I ran it past Martin. Martin approved it.

Right.---It’s not my place to, it was not my place at the time to provide those kinds of approvals that would commit the business - - -

30

Mr Madew certainly seems to think that you were able to agree it with him. ---Yeah, that’s, that’s his thought.

In your discussions with him in relation to agreeing the terms of the contract, was it suggested by you that you needed to go back to Martin - - - ?---Yeah, absolutely. Yeah.

- - - to get approvals?---Yeah.

‘Cause he - - -

40

THE COMMISSIONER: Sorry, can I just, sorry.

MS DAVIDSON: No. No, Chief Commissioner.

THE COMMISSIONER: Can I just ask a question. At this point, how would you describe your role at Dalski?---Given that I wasn't paid, volunteer.

Volunteer. Well, you've given evidence earlier I think that you volunteered for all this because you found it really interesting. I'm just struggling at the moment to understand how being involved in the gun social club and setting up signature blocks and software and all these other administrative tasks really accorded with your fascination for the work that Dalski was undertaking. Are you able to explain that to me?---That's just what it is. I had a, I have a background in computer systems so setting up things like emails is - - -

With respect, some of this stuff is, some of this is very granular management activity which, I'm just struggling to understand how it would have been of much interest to a person who describes himself as a volunteer.---There's no, there's no position description. I meandered through and did, you know, filled gaps wherever. It's not really, that's why it's so ad hoc in nature. There's emails one day and systems the next.

Yeah. All right. Thanks.

MS DAVIDSON: Meandered, to use your word, for some considerable period of time, didn't it?---Using it loosely, yes.

And then there came a period in November 2021 where you provided loans to Dalski. Is that correct?---Correct.

In an amount of \$50,000 on 17 November 2021.---Correct. I think it was two lots.

So if we could have volume 12.5, the first page brought on the screen. You'll see this is a table that's prepared by the Commission. I'll show you how it works. This is the beginning of a volume of the brief that contains a number of bank statements. So if you see the right-hand column there which reflects, if you see about halfway down just above the 1,734 - well, we'll take that example. The \$1,734 payment to you on 5 November 2020, do you see that?---Yes.

Then in the right-hand column there's a reference to page 66. Could we go to page 66. You'll see that's an extract from your bank statement showing the actual entry.---Okay.

So if we come back to the first page and that - those page references correspond for all of the entries that are included in the table.---Okay.  
Thank you for that.

- 10 If we could expand that again. The payments - and we could scroll back up to the top - the payments are showing debits and credits into the two Dalski bank accounts that are nominated at the top, and down the bottom, well, you see on the right-hand column there's credits from you and there's a payment on 17 November 2021 that says "Vlad loan" and then there's another payment of another \$50,000 on 1 December 2021.---Yes.

Is that the two lots you were referring to subsequently?---Correct. I just want to point out at the top that there's an error in the dates.

- 20 An error in dates?---Yep.

Yep. If we can go back to the top.---So the signatories, the timelines for the dates are exactly the same between those two items at the top. I was not a signatory to Dalski on 1 January 2015.

All right. When did you become a signatory to Dalski?---You guys have the records. I don't remember the specific date but it was some time last year.

- 30 Okay. In respect of the period of time that you were engaged in management activity for Dalski, that is from at least September 2021 - withdraw that. That is from at least September 2020 on your evidence, and likely earlier judging by the emails you've just given evidence in relation to, did you regard yourself as able to approve or authorise expenditure on behalf of Dalski even if you weren't a signatory to the bank account?---I think I could reason with someone like Martin, and if it was a genuine expense, he would have approved it and made the, and made the payment.

That is he would have acted on your recommendation?---Potentially, yeah.

All right. And where you refer to approval, that was because he was a signatory to the bank account at the time and you weren't?---Well, he's the director. He controls the business.

Right. Was he actively asking questions in relation to expenditure that you recommended?---No, not that I can recall.

Right. He would take your word for it?---In what sense?

10 Well, in relation to things that, expenditure that you wanted incurred on behalf of Dalski.---I don't, I don't think that I told him he needs to spend a certain amount of money or who to pay. I think that, that's part of his day-to-day operation of a business.

Returning to the loan and the two payments, the first of them was made on the day that you resigned from Downer. That was 17 November.---Okay, yep.

20 Do you recall why you made that loan?---Martin asked me for the money.

Right. What was the money? What did you understand the money to be for?---He had a cashflow issue with the business and he needed to borrow the money.

Had he been discussing cashflow issues with you in the leadup to this period of time?---Yeah, yep. There might have been other times where the business had poor cash flow.

30 Right.---But it was not in relation to borrowing money. It was just the businesses were having some cashflow issues.

Okay. Did you review the businesses' accounts in the context of the work that you were doing as part of Dalski management?---Not to that, not to that extent but I had visibility of, of Dalski's accounts, yes.

When you say you had visibility, did you check them, did you discuss them, what steps did you take?---I don't know specifically.

40 Right.---But I could see, I could see, I could - - -

What kind of visibility did you have? Did you log in and look at them?  
---No, I couldn't log in to his accounts. I never had that. Dalski uses a third-party software and that - - -

An accounting software?---An accounting software.

So like Xero or something?---It's exactly that, yeah, Xero. So I could see what the bank account was doing through that system.

10 So you had a login for that, did you?---Correct.

For access for that?---I think it was the, the generic accounting login.

Did you take steps using that system to raise invoices or prepare invoices on behalf of Dalski, do you remember?---No. I don't think I did, no.

Do you recall directing whether invoices should be paid using that system on behalf of Dalski?---What I did help with was improving the accuracy of the data on that system.

20

Say that Martin indicated to you the business was having some cashflow problems, did you offer at that point to loan him some money?---Yes.

How did the discussion go?---Yes. I said, "If you're, if you're in deep shit I can, I can get some money out and loan it to you."

Was that a discussion that occurred on the day or in the leadup to 17 November?---I think it was there or thereabouts that day. I don't know that it was any longer beyond that. There wasn't any further back beyond that date, yeah.

30

Did you an interest rate in relation to the loan?---There is no interest rate.

Is there a term?---There is no term.

So it's an interest-free loan with no term?---Correct. I'm technically - - -

And how about the second - - -?---I'm technically losing money on that.

40 I'm sorry?---I'm technically losing money on that and I'm aware of that.

And how about the second of those payments, is that the same situation?---I, I, so I think this was one, I had limits on how much I could transfer out so I think that's what - it was agreed to be \$100,000.

I see.---And, and it was just, that was the limit.

It was your internet banking limit or something like that?---Yeah. I think so, yeah. Yeah.

10 THE COMMISSIONER: I take it there was no security on it?---There's no security, absolutely not.

MS DAVIDSON: So it looks - well, the timing, that is being the day that you resigned from Downer, makes it look awfully like you were buying into the company in advance of joining it, does it not?---It's a coincidence, purely a coincidence.

You would not regard yourself as somebody who didn't take care of your own finances, would you?---No.

20

You are diligent in relation to them?---Yep. I would consider that to be the case.

Had you ever loaned anybody else \$100,000 without documenting the loan or obtaining any security or agreeing any interest?---My sister.

Outside of your family?---No.

30 It's a fairly extraordinary business transaction to enter into if there's no recourse for you, is it not?---Agreed, yeah. Very high risk.

And that reflects your intention to join the company at the time, doesn't it? ---No. I will maintain that. That's my position.

40 Because there wasn't any other reason for you to lend Martin - notwithstanding that you had been part of the management, to put your own money at risk was an entirely different category of thing to do, wasn't it? ---It's not just my money. It's my wife's money too. So I'm well aware of the magnitude of the dollars, what it means to me and what it means to us but that's what - I did it.

Who's Dalski's accountant?---I beg your pardon?

Who's Dalski's accountant?---I think they use a company called Murchisons.

I'm sorry?---A company called Murchisons.

Are you able to spell that?---M-u-r-c-h-i-n-s - Murchisons.

10 Would they be aware of this loan?---It's recorded on the, on the balance sheet ledger, yes.

It is included in Dalski's accounts?---Correct.

Do you know whether Martin has any intention of repaying you?---A part-payment has already been made.

A part-payment has been made?---Correct.

20 And when was that?---I don't remember a specific date but I happy to, I'm happy to provide that?

How much has been repaid?---Sorry?

How much has been repaid?---25 comes to mind, 25,000.

Are you able to say whether that was last year, this year?---It was last year.

In the period since you've become an employee of Dalski?---Correct.

30

Chief Commissioner, I note the time. I probably have only about 10 more minutes with this witness.

THE COMMISSIONER: Yes, all right. Well, if there's no issue we'll continue.

MS DAVIDSON: If I might just have a moment. I might seek a very brief adjournment just to discuss something that's arisen, Chief Commissioner, in the course of the examination.

40



THE COMMISSIONER: Yes. I just want to ask a couple of questions if I could at this point. Do you still have contact with Mr Bedwani?---I do.

Is that the same level of contact as you've had before you resigned from - - - ?---No.

On a sociable level at least?---Probably not either. No.

Yes, all right. Thank you.

10

MS DAVIDSON: Chief Commissioner, if I might just seek that brief adjournment now.

THE COMMISSIONER: Yes, all right. Let me know when you're ready.

MS DAVIDSON: I can then deal with the remaining matters quite quickly.

THE COMMISSIONER: Thank you.

20

**SHORT ADJOURNMENT**

**[4.00pm]**

THE COMMISSIONER: Yes.

MS DAVIDSON: Chief Commissioner, as a result of the new information that has emerged, it's going to be necessary to make some further inquiries, therefore I seek an adjournment in respect of this witness's evidence and for the purpose of the Commission, communicating with his representatives about bringing Mr Stanculescu back later in the week.

30

THE COMMISSIONER: All right. Mr Stanculescu, we'll stand you down for the moment but there will be some communication I'm told with your legal advisors to have you brought back on another occasion later in the week. So you're not discharged at this stage. As I indicated, you will be advised if you will be required to reattend the Commission - - -?---Yes, Chief Commissioner.

- - - for the continuation of your evidence. All right. Adjourn till tomorrow.

40

**THE WITNESS STOOD DOWN**

**[4.18pm]**

**AT 4.18PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[4.18pm]**