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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE HELEN MURRELL SC  
COMMISSIONER

PUBLIC HEARING

OPERATION MANTIS

Reference: Operation E22/1852

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 3 JUNE, 2024

AT 10.00AM

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: Good morning and welcome, everyone, to this public inquiry. I would like to commence the inquiry by acknowledging the Gadigal of the Eora Nation, the traditional custodians of this place.

The Commission investigates, exposes and prevents corruption involving or affecting public authorities and public officials, including local government authorities, council employees and council contractors. And we also educate public authorities, public officials and members of the public about corruption and its detrimental effects on public administration and the community. Our paramount concerns are to protect the public interest and protect breaches of public trust.

This investigation is known as Operation Mantis. In Operation Mantis the Commission is investigating whether between May 2020 and December 2022 then Canterbury Bankstown Council contractor Pietro Cossu and/or then council employee Benjamin Webb partially or dishonestly exercised their official functions by using and/or attempting to use PMLV Invest & Const Pty Ltd to undertake recruitment subcontractor services through council recruitment contractors in circumstances where Cossu and/or Webb failed to disclose their pecuniary interest in PMLV and/or pecuniary benefits that they anticipated receiving in connection with the use of PMLV.

Secondly, the Commission is investigating whether between July 2020 and December 2022 then council contractor Cossu and/or then council employee Webb partially or dishonestly exercised their official functions to favour General Works & Construction Pty Ltd by attempting to influence the award of council contracts to GWAC and/or using or attempting to use PMLV to undertake subcontractor services in respect of GWAC contracts with council to benefit themselves and/or others.

The investigation aims to determine whether either or both allegations are true. If they are true, whether corrupt conduct has occurred and whether laws and/or workplace practices or procedures should be changed to reduce the risk of corrupt conduct occurring in the future. The Commission has obtained and analysed numerous documents including recruitment agency records, council records and banking records. The Commission has interviewed some possible witnesses.

The Commission can undertake an investigation with or without conducting compulsory, that is, private examinations, or a public inquiry. In the case of Operation Mantis the Commission has undertaken some compulsory

examinations. The information obtained to date supports a tentative view that the activities, the subject of the investigation, might amount to serious corrupt conduct. The Commission has now authorised this public inquiry. It is expected that the material revealed at the public inquiry will assist the Commission to decide whether the allegations are true, and if they are true, whether corrupt conduct has occurred, and whether laws and/or workplace practices or procedures should be changed to reduce the risk of similar corrupt conduct occurring in the future.

10 In deciding that it is in the public interest to hold this public inquiry the Commission has taken into account a number of facts. First, the benefit of exposing to the public and making it aware of any corrupt conduct that has occurred. Such exposure is likely to have a strong deterrent effect on people in senior roles in local government. Exposure may encourage others to come forward with well-founded complaints of corruption in local government or elsewhere. It will provide visibility to the constituents of the relevant council area. It will educate the public generally about corruption risks in local government. Exposure is likely to generate public debate about whether laws and/or workplace practices and procedures affecting  
20 local government should be changed.

Second, the Commission has taken into account the seriousness of the allegations being investigated. The allegations the subject of Operation Mantis are serious because they involve misconduct, or alleged misconduct, by senior council employees over a long period. It is alleged that each received substantial personal benefits as a result of misconduct and because they raise important questions about laws and/or workplace practices and procedures affecting local government. Another consideration that has been taken into account is any risk of undue prejudice to a person's reputation,  
30 including prejudice that might arise from not holding an inquiry.

The Commission acknowledges that there is a high likelihood that the reputations of the persons who are of interest to the investigation will be significantly damaged by the public inquiry. Whether there is undue prejudice may depend on the Commission's findings. The Commission acknowledges that there may be some injury to the reputations of others but considers that undue prejudice is unlikely as to the investigation will place their roles in a proper context. Having regard to the seriousness of the allegations and the material that is already in the Commission's possession,  
40 the Commission considers that the persons of interest in the investigation

and others who may feel that they are affected should be afforded an opportunity to publicly refute or explain their conduct.

Further, the Commission is empowered to hold part of the inquiry in private if that is in the public interest, and/or restrict the publication of evidence, information or the identity of witnesses if that is necessary or desirable in the public interest. The Commission has taken into account also whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned. The  
10 Commission accepts that this public inquiry may entail some intrusion into the privacy of witnesses and others, particularly the persons of interest. However, as the Commission is focused on the performance of public duties, the Commission does not anticipate that there will be a significant intrusion into anyone's privacy.

Further, as mentioned, the Commission may decide to hold part of the inquiry in private and/or restrict the publication of evidence, information and the identity of witnesses if that is necessary or desirable in the public interest.  
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I note that witnesses have been given an opportunity to prepare for the public inquiry, including the opportunity of seeking legal representation. During the inquiry exculpatory evidence that is known to Commission officers will be brought to my attention and that of affected persons, and an affected person may also seek to call exculpatory evidence at the inquiry. Affected persons will be given an adequate opportunity to respond to inculpatory material. Affected persons may be given leave to cross-examine witnesses including as their credibility. The Commission will try to avoid unnecessary intrusion into privacy. Affected persons will be given the  
30 opportunity to respond to potential adverse findings.

As it is important to protect personal privacy in circumstances where information is of little public interest, unless anyone wishes to be heard to the contrary, I will make a direction pursuant to section 112 in the usual terms. Pursuant to section 112 of the Independent Commission Against Corruption Act I direct that during the course of the inquiry there be no publication of any private email address, residential address, phone number, bank account number or tax file number referred to in the inquiry except to  
40 Commission officers and to witnesses and their legal representatives who are involved in the inquiry and who need to know that information for the purposes of the inquiry.

**SUPPRESSION ORDER: PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DIRECT THAT DURING THE COURSE OF THE INQUIRY THERE BE NO PUBLICATION OF ANY PRIVATE EMAIL ADDRESS, RESIDENTIAL ADDRESS, PHONE NUMBER, BANK ACCOUNT NUMBER OR TAX FILE NUMBER REFERRED TO IN THE INQUIRY EXCEPT TO COMMISSION OFFICERS AND TO WITNESSES AND THEIR LEGAL REPRESENTATIVES WHO ARE INVOLVED IN THE INQUIRY AND WHO NEED TO KNOW THAT INFORMATION FOR THE PURPOSES OF THE INQUIRY.**

THE COMMISSIONER: The Commission has appointed Ms Huxley and Ms Ryan of counsel to assist the Commission in this inquiry. The Commission has granted authority to a number of lawyers to represent witnesses. Now, in relation to Canterbury Bankstown Council, Mr Anderson and Mr Vangi, authority has been given to Mr Moses of senior counsel, Ms Alderson and Mr Rolfe of junior counsel, instructed by Mr Kondilios, Ms Bonic and Ms Frost.

In relation to Mr Webb, authority has been given to Mr Pararajasingham of counsel and Mr France, solicitor. In relation to Mr Clarke authority has been given to Mr McAuley. In relation to Mr Davidovic authority has been given to Mr McEwan. In relation to Mr Ivan Webb authority has been given to Mr Wong. In relation to Ms Chaparro authority has been give to Ms Hughes, and in relation to Ms Kielty authority has been given to Ms Wurth.

I anticipate that this inquiry will take about three weeks. I think we're expecting that approximately 14 witnesses will be called, and documentary and digital material will be tendered.

Now, I emphasise that in referring to the allegations and the considerations that have prompted the decision to conduct a public inquiry, neither I nor the Commission more broadly has formed a view about whether corrupt conduct has actually occurred, whether any finding of corrupt conduct is warranted, or whether there should be any legal or procedural changes. We are here to further investigate whether and to what extent there is substance to the allegations and whether to recommend legal or procedural changes.

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That is all that I have to say for the moment and I will call upon Ms Huxley to make some opening remarks.

MS HUXLEY: Commissioner, Huxley, I appear with Ms Ryan as counsel assisting. Commissioner, the principles of honesty and impartiality are of central importance to the exercise of public functions by local council members of staff and their management of public funds. Those principles are reflected in section 439 of the Local Government Act which requires members of staff of a council to act honestly and exercise a reasonable  
10 degree of care and diligence in carrying out their functions. Those principles are also reflected in the Model Code of Conduct for Councils in NSW, which is prescribed for the purposes of section 440 of the Local Government Act. In short, that code requires that members of staff must not act improperly or unethically and must not misuse their position to obtain a private benefit. The code also places obligations on staff members of a council to identify and disclose certain pecuniary interests including as they arise. The code also requires that members of staff avoid situations giving  
20 rise to the appearance that a person, through the provision of gifts or benefits or hospitality, is attempting to secure favourable treatment, or accept gifts or benefits that may be perceived as an attempt to influence them in the exercise of their official functions.

This inquiry concerns the conduct of Mr Benjamin Webb and Mr Pietro Cossu during their time working at Canterbury Bankstown Council and their involvement in the hiring of a number of contingent workers and also their involvement in the award of council contracts to General Works & Construction Pty Ltd, which I will refer to in this opening as GWAC. Mr Webb was Manager of Works and Projects at council from 24 February 2020 to 9 December 2022. Mr Cossu was contracted to work at council  
30 through Randstad as a Construction Team Leader from 6 May 2020 to 20 December 2022. The allegations, which I will come to shortly, involve the use of a company called PMLV Invest & Const Pty Ltd, which I will refer to as PMLV, to supply contingent hire workers to council through two other recruitment agencies and to subcontract to GWAC on council contracts. Mr Cossu was the sole director and shareholder of PMLV from 18 October 2013 to 27 June 2023. From 27 June 2023 Mr Webb's father, Mr Ivan Webb, became the director and shareholder of PMLV.

As the Commissioner has said, this inquiry concerns two allegations. The  
40 first allegation is whether between May 2020 and December 2022, Mr Cossu and/or Mr Webb partially or dishonestly exercised their official

functions by using and/or attempting to use PMLV to undertake recruitment subcontractor services through council recruitment contractors in circumstances where Mr Cossu and/or Mr Webb failed to disclose their pecuniary interest in PMLV and/or pecuniary benefits that they anticipated receiving in connection with the use of PMLV in this way.

10 The second allegation is whether between July 2020 and December 2022, Mr Cossu and/or Mr Webb partially or dishonestly exercised their official functions to favour GWAC by attempting to influence the award of council contracts to GWAC, and/or using or attempting to use PMLV to undertake subcontractor services in respect of GWAC contracts with council to benefit themselves and/or others.

Commissioner, I will now outline the circumstances in which Mr Webb and Mr Cossu came to work for council and what their respective roles entailed. Mr Webb commenced his role as the Manager of the Works and Projects Unit at council on 24 February 2020. He resigned on 21 November 2022 and his resignation was effective from 9 December 2022. Mr Webb's resignation followed an email sent to him and others on 15 November  
20 advising him that all current recruitment for positions in the Works and Projects Unit was to be placed on hold until further notice. Mr Webb's role as the Manager of Works and Projects was to lead a multidisciplinary team of staff to design, procure, administer and project manage the delivery of council's capital works program. As part of this role Mr Webb was required to identify resourcing requirements and lead the recruitment of permanent and contract staff as part of an approved realignment.

30 Mr Webb's direct supervisor was Mr Anthony Vangi, Director of City Operations, and his next level supervisor was Mr Matthew Stewart, the General Manager. There is no suggestion that either of these people were engaged in corrupt conduct. Mr Webb's financial delegation was \$150,000.

Mr Webb falls within the definition of a "public official" in the Independent Commission Against Corruption Act by virtue of the fact that he was an employee of a public authority, and council is and was a public authority under the ICAC Act.

40 As an employee of council Mr Webb was bound by the council's code of conduct. And a condition of Mr Webb's employment was that he complete the modules assigned to him on the online onboarding platform which included the code of conduct.

There were three versions of the council code of conduct during the time of Mr Webb's employment at council. All three versions required designated persons, which included senior staff members, to prepare and submit annual written forms disclosing their pecuniary interests. In addition, all staff members were required to disclose a pecuniary interest in writing to the General Manager or to their manager in a matter they were dealing with as soon as practicable after becoming aware of the interest. Members of staff were also required to identify, disclose and adequately manage non-pecuniary conflicts of interest. The Code set out circumstances in which a non-pecuniary conflict of interest was regarded as significant including where there was a close friendship or business relationship between the staff member and a person who was affected by a decision under consideration. Under the applicable codes where a pecuniary interest is disclosed the matter to which it relates must be dealt with by the General Manager or the person's manager or it must be referred to another person to deal with. Where a non-pecuniary conflict of interest arises the matter must be managed by not participating in consideration of, or decision-making in relation to, the matter in which the person has the significant non-pecuniary conflict of interest and the matter must be allocated to another person for consideration or determination.

On 1 September 2020 Mr Webb submitted a signed Disclosure of Interest Form. This form related to the financial year 1 July 2019 to 30 June 2020. On 15 September 2021 Mr Webb submitted another signed Disclosure of Pecuniary Interest Form. This form related to the financial year 1 July 2020 and 30 June 2021. In these forms the sources of income disclosed were his income from the council and income from a family trust. He disclosed no other sources of income, no debts and no gifts in either of these forms.

One matter which will be explored in this public inquiry is the extent to which Mr Webb complied with his obligations to disclose his pecuniary interests and non-pecuniary interests including to Mr Vangi, his direct supervisor, as they arose.

Mr Cossu was contracted to work at council through the recruitment agency, Randstad, as a Construction Team Leader. He was in turn contracted to work for Randstad through his business PMLV as an ABN contractor and submitted a completed independent contractor agreement to that effect on 28 April 2020 as part of Randstad's contractual requirements. Mr Cossu's labour arrangement with council involved the following. Randstad invoiced

council for work done by Mr Cossu at a rate of \$125.56 per hour plus GST and Randstad then paid Mr Cossu \$113 per hour plus GST. Mr Cossu's contract to council with Randstad was repeatedly extended.

Mr Cossu falls within the definition of a "public official" in the ICAC Act by virtue of the fact that he was a person engaged by and acting for or on behalf of a public authority. As I have already noted, council is and was a public authority under the ICAC Act.

- 10 Mr Cossu commenced work on 6 May 2020. He reported to Mr Webb and his contract was terminated on 20 December 2022. In total PMLV was paid \$691,729.50 by Randstad for the work Mr Cossu was contracted to do at council during the period of his contract. The circumstances in which Mr Cossu came to be contracted to council and his relationship with Mr Webb will be explored in this public inquiry.

- 20 This inquiry will also explore the onboarding procedures, including training in relation to the code of conduct, conducted with respect to Mr Cossu and the applicability of the council code of conduct to Mr Cossu during his time at council. The council code of conduct does not expressly apply to contractors and section 440 of the Local Government Act applies the code to members of staff but this term is not defined in the Act. There is some evidence that Mr Webb arranged for certain agency staff, including Mr Cossu, to attend code of conduct training in November 2020. Other conduct by Mr Cossu suggests he had some understanding of the requirement to disclose conflicts of interest.

The first allegation relates to the engagement of a number of contingent workers by council between February 2021 and September 2022.

- 30 Contingent workers are a particular type of labour engagement where a person is supplied by a contingent labour supplier, for example, a recruitment company, to provide short-term labour. The worker is not employed directly by the organisation, here council. Rather the worker is contracted through the agency to work for the organisation. Contingent worker labour is a legitimate form of labour that can be used to fill capability gaps in certain roles and in certain situations and it can reduce risks to the hiring organisation of carrying full-time employees where there is uncertainty in the labour requirements of that organisation in the future. However, there can also be disadvantages to using contingent workers
- 40 including the higher costs of the contractual arrangements and the lack of

opportunities for professional development in the organisation's full-time workforce.

The Works and Projects Unit at council engaged a number of contingent workers between February 2021 and September 2022 and the number of contingent workers engaged by the unit rose from 38% of the total unit workforce in February 2021 to 71% in September 2022.

10 In 2021 and for most of 2022 contingent workers were engaged by council utilising the Local Government Procurement Pty Ltd contracts for Human Resources Permanent and Temporary Placements and Associated Services with two agencies, Randstad Pty Ltd and JHA Recruitment & Staff Pty Ltd trading as Spinifex Recruiting. The contingent worker would be engaged by Randstad or Spinifex and supplied to council through the Local Government Procurement (LGP) contract. Randstad or Spinifex would charge council an hourly rate for the supplied worker for the number of hours worked and council would pay Randstad or Spinifex that amount. Randstad or Spinifex would then keep a certain agreed percentage of the hourly rate and pay the remainder to the worker.

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Randstad and Spinifex would also use subcontractors to supply workers. Under the terms of the LGP contract, Randstad and Spinifex were required to seek approval from Local Government Procurement or notify them in writing as to authorised subcontractors. On 6 April 2021 Randstad notified Local Government Procurement that it had added PMLV as an authorised subcontractor under the panel arrangement. There is no evidence that council, other than Mr Webb, was notified or aware of the addition of PMLV as an authorised subcontractor nor was there any requirement for council to be notified of this under the Local Government Procurement contracts with Spinifex and Randstad.

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There were no systems in place at council in respect of contingent workers and it was largely up to managers to manage the recruitment. At the relevant times, Human Resources at council were not involved or responsible for the hire of contingent workers and they were engaged by individual hiring managers in accordance with the procurement processes and operational budgets. This meant that Mr Webb was able to use his financial delegation to recruit contingent workers. If the purchase order was outside Mr Webb's delegation, then Director approval was required. There was no requirement for recruitment companies to submit multiple candidates for the role and screening checks were supposed to be conducted

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by the recruitment agency and/or the hiring manager relevant to the requirements of the role. The hiring manager had broad discretion in this arrangement including liaising with the recruitment agency as to the screening checks relevant to each role and due diligence checks. Nor was there a requirement for there to be an interview but where interviews did take place, there was a requirement for the relevant documentation to be retained and stored in council's data management system. The pay rates for labour hire were to be assessed against similar council roles and set under the relevant government recruitment contract. Hiring managers were also  
10 required to deal with the onboarding process.

From 26 September 2022 council engaged Comensura, a managed service provider, to provide recruitment services. After the appointment of Comensura, the Talent Management Team at council were responsible for working with Comensura regarding the engagement of contingent workers within the procurement processes and guidelines. None of the allegations concern the period from when Comensura was engaged by council.

There is evidence that from 1 February 2021 to 1 September 2022 Mr Cossu  
20 used his company PMLV to supply contingent workers to Randstad and Spinifex who in turn supplied those workers to council. A total of 26 contingent workers were supplied to council under this arrangement. Many, if not all, of the workers were paid substantially less than the hourly rate charged to council by Randstad or Spinifex and substantially less than the hourly rate charged to Randstad or Spinifex by PMLV. This arrangement resulted in a significant profit to PMLV in respect of these contingent workers. Analysis of the financial records indicates that Randstad and Spinifex paid PMLV a total of \$7,184,938 between 2021 and 2023. This excludes the money paid by Randstad to PMLV for Mr Cossu's contractual  
30 arrangement with council. In turn, PMLV paid these 26 workers a total of \$2,677,605. This leaves potential profits of \$4,507,332 from which insurances and other relevant expenses were to be deducted.

This inquiry will explore the circumstances in which these 26 workers came to be engaged by PMLV and contracted to council including Mr Cossu and Mr Webb's knowledge of and involvement in these arrangements. There is no evidence that any of the 26 contractors engaged in corrupt conduct in relation to their contingent worker engagement by PMLV. The inquiry will also explore the extent to which this arrangement was disclosed to or  
40 concealed from council and whether it ought to have been disclosed to the council given at least Mr Cossu's pecuniary interest in PMLV.

An internal audit of the council's use of contingent workers in December 2021 did not refer to the arrangement whereby a number of contractors to council were supplied by another council contractor's company through Randstad and Spinifex. It appears the first time council, other than Mr Webb, became aware that Randstad and Spinifex were subcontracting to PMLV for recruitment services was in late 2022. Shortly thereafter, council informed Mr Webb that all recruitment for positions in the Works and Projects Unit was placed on hold until further notice. And on 21 November 10 2022 Mr Webb resigned effective 9 December 2022.

The second allegation relates to the circumstances in which GWAC was awarded council contracts and the involvement of Mr Cossu and Mr Webb in the tender processes, the award of those contracts and the carrying out of works pursuant to those contracts. GWAC was registered with the Australian Securities and Investments Commission on 7 July 2020. Jeremy Clarke is the sole director. Another company, Clarke Services Pty Ltd is listed as the shareholder of the two shares issued by the company. Jeremy Clarke and his wife Kristen Clarke are the directors and shareholders of 20 Clarke Services Pty Ltd. Mr Clarke created GWAC as an operating company to do work in Sydney.

Jeremy Clarke is also the director of Bulk Conveying Equipment Pty Ltd and McGoo Civil Pty Ltd. The shareholder of those companies is also Clarke Services Pty Ltd. Mr Clarke and Mr Cossu have known each other since at least 2018.

GWAC was awarded a number of council projects from July 2020 to November 2022. Mr Cossu was involved in a large percentage of these 30 projects as either the Superintendent's Representative or the Project Manager or Officer. In a number of the projects Mr Clarke sent Mr Cossu a copy of the proposed quote prior to formally submitting it to council. In many of those instances the proposed quote was changed after Mr Clarke had sent it to Mr Cossu and before it had been submitted to council and in some of those instances the quote was amended or prepared by Mr Cossu himself.

This public inquiry will principally focus on the award of the contracts to GWAC for the upgrade to the Bankstown Library and Knowledge Centre 40 and two projects in connection with Appian Way.

The first project awarded to GWAC was an upgrade to the cooling tower at the Bankstown Library and Knowledge Centre. Mr Cossu was the Project Manager for this project. Two days after GWAC was registered, Mr Cossu sent Mr Clarke a request for a quote in relation to the upgrade. Mr Cossu sent the same request to F3 Industries. On 15 July 2020 F3 Industries emailed a quote to Mr Cossu for \$15,200 plus GST. On 17 July 2020 another potential contractor emailed Mr Cossu a quote for \$30,337 plus GST which listed installation costs as \$8,837 plus GST.

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On 17 July 2020 Mr Clarke emailed Mr Cossu at his PMLV email address a quote totalling \$16,890 plus GST for the work. Call charge records indicate that Mr Clarke and Mr Cossu spoke on the telephone shortly after the email was sent. Later that day Mr Clarke emailed Mr Cossu at his council email address attaching a quote of \$27,980 plus GST.

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On 21 July 2020 Mr Cossu sent a council officer and Mr Webb the panel recommendation report authored by Mr Cossu which recommended GWAC be awarded the project. The recommendation was endorsed by a council officer and approved by Mr Webb. As it happens GWAC subcontracted the fabrication and supply of the platform required for the upgrade to F3 Industries. During the course of the project a variation of \$4,820 plus GST was submitted by Mr Clarke to Mr Cossu who then sought and received approval. There is also evidence that Mr Cossu assisted Mr Clarke through PMLV in relation to documentation requested by council.

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Two projects were awarded to GWAC in relation to the Appian Way works. The first was the Appian Way non-destructive digging works which were a precursor to the Appian Way Culvert Upgrade. Council sent Mr Clarke a request for a quote for the non-destructive digging works on 16 September 2020. Four hours later Mr Clarke forwarded the request to Mr Cossu's PMLV email address. On 22 September 2020 Mr Clarke emailed Mr Cossu at his PMLV address an earlier quote for the original works which was for \$179,940.50. Call charge records indicate that Mr Cossu and Mr Clarke spoke several times on 22 September 2020 before Mr Clarke then sent a quote to council for \$108,300 plus GST for the works.

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Emails also indicate that Mr Cossu assisted Mr Clarke to resubmit the quote for \$104,509.50 plus GST. The resubmitted quote was the second cheapest quote received and it was just under \$1,000 cheaper than the most expensive tenderer. Mr Cossu was a member of the Evaluation Panel who

recommended GWAC be awarded the work. On 6 October 2020 Mr Webb and another council officer approved the recommendation. Mr Cossu was listed as the Superintendent's Representative. Shortly after the award of the project to GWAC, Mr Cossu approved a further \$84,420 worth of variations.

10 On 29 October 2020 council paid into Mr Clarke's account a figure of \$212,081.45 for the works done on the Appian Way non-destructive digging project. The second Appian Way project that was awarded to GWAC was  
the Appian Way Culvert Upgrade. The tender process for this work was complicated and lengthy due to the complexities of the project and the anticipated cost. Mr Cossu was included on the Evaluation Panel as approved by Mr Webb. After the initial tenders were received Mr Cossu declared an interest with GWAC and was removed from the Evaluation Panel and replaced by another PMLV contractor to council. Following the receipt of the initial tender proposals GWAC responded to a number of requested clarifications from council. In the course of the evaluation process GWAC failed the financial assessment for the project for a number  
20 of reasons including its limited trading history and lack of experience in executing contracts of a similar or greater value than the contract in question. Despite failing the financial assessment council awarded the contract to GWAC. The total contract value was \$2,419,493.34.

This inquiry will explore the circumstances in which GWAC came to be awarded council projects including whether Mr Cossu disclosed to GWAC inside or confidential information and whether he assisted GWAC in the tender process and in the completion of the relevant projects. The inquiry will also examine whether PMLV provided any subcontracting services to GWAC including the engagement of a company called Obnova to fabricate  
30 the precast culverts for the second Appian Way project. Evidence of financial benefits obtained by Mr Cossu and PMLV from GWAC and Mr Clarke will also be examined as will Mr Webb's involvement in decision-making in the course of the tender process and the award of council contracts to GWAC.

The financial records of the relevant individuals and companies have been analysed and will also form a focus of this inquiry. The inquiry will examine the benefits PMLV received as a result of the recruitment subcontracting arrangement it had with Spinifex and Randstad to supply  
40 workers to council and the benefits PMLV received from Mr Clarke and his associated entities.

The inquiry will also focus on benefits that flowed from Mr Cossu and PMLV to Mr Webb during the relevant periods and the basis for the receipt of those benefits.

10 The Commission will also consider making recommendations as to the prevention of corruption with a view to reducing the likelihood of the occurrence of corrupt conduct in the future. The Commission will consider what if any recommendations should be made regarding the use and  
10 engagement of contingent workers by public authorities and the controls that ought to be in place when engaging contingent workers. These controls include a consideration of contingent hire processes and procedures, workforce planning, employment screening, financial reporting and oversight of contingent workers and the influence of workplace culture on the reporting of corruption. The Commission will also consider what if any  
20 recommendations should be made regarding procurement, contract and project management, risk management, probity and integrity management, reporting and information management and other key council policies, processes and systems to ensure that risks to public authorities are  
20 adequately managed and public funds are expended in a responsible manner.

For the benefit of the public observing this inquiry, it should be understood that the Commission is an investigatory body. It is not a court. At the end of this inquiry and in its report, the Commission may make findings of serious corrupt conduct and may also consider whether advice should be sought from the Director of Public Prosecutions concerning possible prosecutions for criminal offences. However, it should be emphasised that the Commission does not make any findings of criminal guilt.

30 Because this is an investigation, and the investigation is ongoing, it may be that the focus of this inquiry shifts or new allegations emerge against the individuals who have been named in the allegations, or indeed other individuals. That is the inherent nature of any investigation. The Commission will not however make any findings adverse to any person without giving them notice of the proposed finding, at least through  
40 submissions made at the end of this inquiry.

THE COMMISSIONER: Thanks, Ms Huxley. I've mentioned the lawyers who have been granted authority to appear. I'm not sure who is present  
40 today. Would the lawyers like to announce their appearances for today.

MR PARARAJASINGHAM: Commissioner, Pararajasingham, instructed by Mr France for Mr Webb. Authorisation was given previously.

THE COMMISSIONER: Yes, thanks. Anyone else?

MR MOSES: Yes, if it please the Commission, I appear with my learned friends Mr Rolfe and Ms Anderson for the Council.

THE COMMISSIONER: Yes, thanks, Mr Moses.

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MS WURTH: I appear for Ms Kielty. My name is Ms Wurth.

THE COMMISSIONER: Yes, thanks, Ms Wurth.

MS WURTH: Thank you.

THE COMMISSIONER: Well, Ms Wurth, I think Ms Kielty is going to be our first witness so if you want to come further forward, if that's more convenient.

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MS WURTH: Thank you.

THE COMMISSIONER: I will take a break before that, but if you want to come further forward then you're welcome to do so.

MS WURTH: We'll come after the break. Thank you.

MS HUGHES: Commissioner, my name is Hughes. I've been given authority to appear on behalf of Ms Chaparro.

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THE COMMISSIONER: Yes, thanks. May be it then? All right. Well, I think, Ms Huxley, the plan is that we take a short adjournment before we start the first witness, is that it?

MS HUXLEY: Yes, Commissioner. Would it be convenient to tender the documents now, and then take the adjournment?

THE COMMISSIONER: Yes, it would. Yes.

40 MS HUXLEY: Commissioner, I tender volume 1.1, which I understand will be Exhibit 29.

**#EXH-029 - Volume 1.1**

THE COMMISSIONER: Yes.

MS HUXLEY: Volume 3.1, which I understand is Exhibit 30.

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**#EXH-030 - Volume 3.1**

MS HUXLEY: Exhibit 3.3, Exhibit 31.

**#EXH-031 - Volume 3.3**

20 THE COMMISSIONER: Yes.

MS HUXLEY: Volume 4.1, Exhibit 32.

**#EXH-032 - Volume 4.1**

THE COMMISSIONER: Yeah.

30 MS HUXLEY: 5.1, Exhibit 33.

**#EXH-033 - Volume 5.1**

MS HUXLEY: Volume 6.1, Exhibit 34.

**#EXH-034 - Volume 6.1**

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THE COMMISSIONER: Yes.

MS HUXLEY: Volume 7.5, Exhibit 35.

**#EXH-035 - Volume 7.5**

THE COMMISSIONER: Yes.

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MS HUXLEY: Volume 8.1, Exhibit 36.

**#EXH-036 - Volume 8.1**

MS HUXLEY: Volume 9.1, Exhibit 37.

20 **#EXH-037 - Volume 9.1**

MS HUXLEY: Volume 10.1, Exhibit 38.

**#EXH-038 - Volume 10.1**

MS HUXLEY: Volume 11.1, Exhibit 39.

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**#EXH-039 - Volume 11.1**

MS HUXLEY: Volume 12.1, Exhibit 40.

**#EXH-040 - Volume 12.1**

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MS HUXLEY: Volume 13.1, Exhibit 41.

**#EXH-041 - Volume 13.1**

MS HUXLEY: Volume 14.1, Exhibit 42.

**#EXH-042 - Volume 14.1**

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MS HUXLEY: Volume 15.1, Exhibit 43.

**#EXH-043 - Volume 15.1**

MS HUXLEY: Volume 16.1, Exhibit 44.

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**#EXH-044 - Volume 16.1**

MS HUXLEY: Volume 17.1, Exhibit 45.

**#EXH-045 - Volume 17.1**

30 MS HUXLEY: Volume 18.1, Exhibit 46.

**#EXH-046 - Volume 18.1**

MS HUXLEY: Volume 19.1, Exhibit 47.

**#EXH-047 - Volume 19.1**

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MS HUXLEY: Volume 20.1, Exhibit 48.

**#EXH-048 - Volume 20.1**

MS HUXLEY: Volume 21.1, Exhibit 49.

10 **#EXH-049 - Volume 21.1**

MS HUXLEY: Volume 22.1, Exhibit 50.

**#EXH-050 - Volume 22.1**

20 MS HUXLEY: Volume 23.1, Exhibit 51.

**#EXH-051 - Volume 23.1**

MS HUXLEY: Volume 24.1, Exhibit 52.

**#EXH-052 - Volume 24.1**

30 MS HUXLEY: Volume 25.1, Exhibit 53.

**#EXH-053 - Volume 25.1**

MS HUXLEY: Volume 26.1, Exhibit 54.

40 **#EXH-054 - Volume 26.1**

MS HUXLEY: Volume 27.1, Exhibit 55.

**#EXH-055 - Volume 27.1**

MS HUXLEY: Volume 28.1, Exhibit 56.

10 **#EXH-056 - Volume 28.1**

MS HUXLEY: And volume 29.1, Exhibit 57.

**#EXH-057 - Volume 29.1**

20 THE COMMISSIONER: All right. Thank you. Is there anything further then before we take a short break, Ms Huxley?

MS HUXLEY: No, I think we can take the adjournment now, thanks, Commissioner.

THE COMMISSIONER: Right. I'll adjourn.

**SHORT ADJOURNMENT**

**[10.48am]**

30

MS HUXLEY: Commissioner, the first witness is Noelle Kielty.

THE COMMISSIONER: Have we got Ms Kielty available? Yes, please come forward, ma'am. All right, just stand there for a moment.

MS KIELTY: Okay.

40

THE COMMISSIONER: Now I will just give you a little bit of, or you can actually take a seat for a minute, if you like.

MS KIELTY: Thank you.

THE COMMISSIONER: So at this public enquiry, you must take an oath or make an affirmation to tell the truth. You must answer all the questions that are put to you. You must produce any document or other thing in your custody or control which you are required to produce by summons or that I require you to produce. And you must answer and produce, even if the answer or production may tend to incriminate you. However, if you do object giving an answer or producing a document or thing, your answer or production cannot be admitted in evidence against you in civil or criminal proceedings or disciplinary proceedings. The protection does not extend to proceedings for an offence against the ICAC Act or proceedings for contempt of the Commission. For example, you would not be protected from a prosecution for giving false evidence to the Commission. To gain the benefit of protection, you don't need to object to answering every question. You can take a blanket objection at the outset and this will protect you throughout your questioning. So I presume that you do wish to take a blanket objection.

MS KIELTY: Yes.

THE COMMISSIONER: Your lawyer is indicating that you should do so. All right. So if no one wishes to be heard to the contrary, I declare that all answers given by the witness and all documents and all things produced by the witness will be regarded as having been given or produced on objection by the witness.

**DIRECTIONS AS TO OBJECTIONS BY WITNESS: I DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS AND ALL DOCUMENTS AND ALL THINGS PRODUCED BY THE WITNESS WILL BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION BY THE WITNESS.**

THE COMMISSIONER: Now if you have any difficulty understanding any question that you're asked, please seek clarification or ask for the question to be repeated. If you need a break at any time, let me know. And so before we start your evidence, is there anything that you would like to know?

MS KIELTY: (NO AUDIBLE REPLY)

THE COMMISSIONER: All right. Do you want to take a religious oath or an affirmation to tell the truth?

MS KIELTY: An affirmation, please.

THE COMMISSIONER: Okay. Would you please stand and I will ask my associate to administer it.

MS HUXLEY: Ms Kielty, do you mind if I call you Ms Kielty or is there any other - - -?---Call me Noelle.

Okay, thank you. Can you explain to the Inquiry what your role was at Randstad at 2020 to 2022, please?---I was a principal consultant.

10 And what did that entail?---Recruitment across the local government account.

THE COMMISSIONER: Excuse me, can you keep your voice up a bit, please? Thanks.---Recruitment across the local government account.

MS HUXLEY: And would that involve placing contractors and employees with councils across New South Wales?---Particularly the metro area, yeah

20 Okay. And so what type of workers were you involved in the placement of?---Anything that fell under construction property engineering.

To council.---Yeah.

And would that include the contingent workers as well as full-time employees or temporary or permanent employees, or was it just limited to contingent workers?---Yes. No, all.

Can you explain what your understanding of a contingent worker is?  
---Someone that is contracted in for a project.

30 A particular project or would it be - - -?---Projects.

Projects.---Yeah.

So when you say contracted in, how does that arrangement work with Randstad and the council?---The council would send us a request. If we have a viable candidate, we will submit the candidate to council, the council will employ them via ourselves.

40 So does that mean Randstad are employing the contractor and then they - - - ?---Yeah.

- - - it's just supplied as a contractor to council?---Yeah.

Is the process different if it's a full time or a part time employee?---We would present the candidate and then they would take the person on full time.

And would they - - -?---So it wouldn't be ongoing.

10 And when it's a contingent worker, what fees are charged to council for that arrangement?---It depends on what it says under the local government contract.

Okay. Is it percentage based or is it - - -?---Yeah.

And in relation to a full-time worker, is it percentage based or is it - - -? ---Yeah.

20 Okay. Can you explain what the advantages to an organisation are of using contingent workers?---If they have a particular project or they have work that they need to complete and it's going to be completed at some point, whether it's a year, two years, three years, or if they have funding for a year project then it's best to get a contingent worker in because you're not at risk of bringing in a permanent employee and then having no work for that permanent employee.

And what are the kind of disadvantages to using a contingent worker, what, to the organisation.---To, to the organisation.

30 Is it a higher cost for, are contingent workers generally speaking paid more than full-time employees?---Yeah, to cover their sick leave and annual leave.

So it's like compensation for the fact that they're not given those entitlements.---Yeah, or benefits, yeah.

Did you have any understanding at the time that you were employed at, are you still employed at Randstad?---Yeah.

40 In the same role?---Yeah.

Was it, at the time was it common for the construction industry, as it relates to council, to supply workers as contingent workers or - - -?---Yeah.

- - - or full time, do you know what percentage were supplied as contingent workers or what you, what was the percentage you were involved in supplying as contingent workers?

THE COMMISSIONER: Do you mean to this particular council, or councils generally?

10

MS HUXLEY: Just generally, across the, you know across your metro council.---To general, well that's mainly what I did across the board for councils, was engage contingent workers.

So you're primarily focussed on contingent worker engagement.---Yeah.

Was there a reason for that?---It was what the requirements were, mainly.

20 Okay. Did you have an understanding of what the contractual arrangements were in place in relation to the supply of contingent workers to council?  
---What do you mean?

So under what contract did Randstad supply workers to Canterbury Bankstown Council?---Under the Local Government Procurement contract.

And did you have a general understanding of how that worked?---Yeah.

30 Can you explain what your understanding was?---We can engage contractors under the contract for a period of time and charge under the contract presented.

And would that require additional documentation to be put in place between Randstad and the contingent worker?---We would have our own kind of compliance, yeah.

But would there be an agreement signed between Randstad and the contingent worker?---Yeah, a candid agreement.

40 So an employment engagement.---Yeah.

And then would there be an engagement signed with council for the supply of that worker?---A client agreement, yeah.

THE COMMISSIONER: Sorry, what did you say?---A client agreement.

MS HUXLEY: And were you responsible for ensuring compliance that those agreements were signed?---Yes.

Is there something called “payroll services” in your industry?---Yeah.

10

Can you explain to me what that is?---If a client had a candidate that they would like to bring on, they sometimes refer to an agency and an agency will facilitate the payrolling services, which means that we don't have to interview or we're not required to interview the candidate for the particular position. Our expectation is that the, the client will have already done that and they just want us to payroll the person, they want us to set them up.

Yeah. So why wouldn't they just do that directly?---Sometimes clients don't have that facilitation.

20

A payroll facility? What do you mean by a payroll facility?---Like the facility to manage payrolling services, so they may not have the software, they may not have the, like just the set up. I'm not sure.

But with the, I mean with council who are employers and payrolls their fulltime employees, wouldn't they have the payroll services available to them internally?---I don't know.

30

So the payroll service is provided to the client, as in the council, in the case where you're supplying to a council, would that be, the client would be the council.---Yeah.

And the contractor is referred to you, but supplied back to the council. ---Yeah.

Does Randstad charge a fee for that?---Yeah.

And is it the same fee as if it was - - -?---No.

40

- - - Randstad supplying?---It's a reduced fee.

Reduced fee.---Yeah.

Why is that?---Because we haven't sourced the candidate.

Do you know what the difference in percentage of the fee is for a payroll service as opposed to - - ?---Not off the top of my head, no.

10 Were you aware that under the contract that Randstad had with the Local Government Procurement, that there was an ability for Randstad to subcontract requirements for supplying personnel?---Yeah.

So Randstad could engage a subcontracting company and use their, and supply the workers from that subcontractor to council through Randstad. ---Yes.

20 Did you understand what the requirements for notification under the relevant contract between Local Government Procurement and Randstad were?---I sought advice, are you talking particularly to this for contracting - -

Just generally at the time in 2020.---Generally at the time.

Yeah.---No, until this came up.

Until Mr Cossu's arrangement came.---Yeah.

And that was under an arrangement where Mr Cossu was supplied by his company called PMLV.---Yeah.

30 And he was what's called an ABN contractor.---Yeah.

What does that term mean?---It's an engagement of a company rather than a PAYG employee.

And the expectation is that that company then pays - - ?---Yeah.

- - - the employee who is contracted to council?---Yeah.

40 THE COMMISSIONER: Sorry, did you say that you didn't know whether Randstad could enter a subcontracting arrangement until this issue arose

with PMLV?---Until I was asked to investigate whether this was possible or not.

Yes.---And once that was asked, I sought advice from my manager, from Randstad Legal, from Randstad Payroll.

Yeah, thank you.---And they confirmed that it was something that we could facilitate.

10 MS HUXLEY: Did you understand that Randstad did in fact notify Local Government Procurement at some point - - -?---Yeah.

- - - in early 2021 that it had authorised PMLV as a subcontractor?---As far as I am aware, we requested that we could.

So you raised it with legal?---Requested, yeah.

And then presumably legal took a number of steps to effect that.---Yeah.

20 And did legal tell you that once that was established, that it was okay to engage in that arrangement?---Yeah.

How long had you been working at Randstad when you first came across this potential for PMLV to be a subcontractor?---I started in Randstad in 2016.

And were you always working in the construction group dealing with councils?---Yes.

30 And you'd never come across this particular arrangement before?---Not in my area, no.

What was your level of engagement with Canterbury Bankstown Council in 2020 to 2022? Were they a significant client for you?---They were a significant client throughout my time at Randstad. I worked with them since '16.

And could you estimate how many workers you supplied to them each year?---Not off the top of my head, no.

40

In 2020 who was your primary contact at Canterbury Bankstown Council?  
---It would have been Ben Webb.

And how often would you communicate with him?---Monthly. Regularly.

Would it depend on what the resourcing requirements were that he had?  
---Yeah.

10 Would you check in from time to time to see if he needed workers?---Yeah.

And you expected that he would contact you if he needed workers?---Yeah.

How would you communicate?---Phone, email.

Did you have a preference for phone communications or email communications?---Whichever avenue we - I would call him. If I didn't call him, I'd email him.

20 Okay. Do you recall around that time ever placing any permanent or temporary staff with council around 2020 to 2022?---Yeah.

Do you know how many?---Not off the top of my head, no.

Would it be more or less than the number of contingent workers supplied to council during that time?---I don't know.

Would it be ten per year?---Could be, depending on the year, depending on the capital works program, depending on the need.

30 20 per year?---I highly doubt it would be that many.

Okay. So ten, potentially a little bit more, but not 20.---I, I couldn't recall.

Yeah. When a council would engage a contingent worker how was the fee scale and charge rates determined at 2020?---Through a grade calculator.

THE COMMISSIONER: Sorry, through a?---Grade calculator.

40 Grade calculator.

MS HUXLEY: And was that grade calculator on the Randstad systems?  
---Yeah.

Can I take you to volume 1.1, which is Exhibit 29, at page 28. This is a pricing schedule that's attached to the Randstad LGP contract. Is this the kind of grade scale you would consult? No?---No, this isn't what I would have used.

Was it in an Excel spreadsheet?---Yeah.

10

Can you go down to page 36, please. Would it be something like that?  
---No.

Who was responsible for setting the pay grades?---Randstad.

Randstad, yeah, how would they - - -?---Their agreement with Local Government Procurement.

Okay. So it was under the council agreement.---LPG, yeah.

20

And so when you had a contingent worker you would consult that document.---Yeah.

And communicate that price with Mr Webb.---Yeah.

Was there any room for movement in terms of the pay rate and charge rate?  
---With the government contract you could charge anywhere under 18% but never over 18%.

30 What do you mean by 18%? What's that a percentage of?---18% is the percentage on the contract, so that's what Randstad and LGP have agreed to charge council. So we could be flexible under it but never over it.

Could you negotiate with council to pay for a charge rate higher than what was in the LGP contract?---No.

And so the - - -?---Not unless you went outside the contract, but you wouldn't do it.

40 And would that involve a separate agreement?---Yeah.

Would you need to engage legal for that?---You, I just wouldn't do it.

Yeah.---There's a local government contract for a reason, and you're not going to ask the council to charge more.

So when you looked at the pay rate - so is there a difference between a pay rate and a charge rate?---Yeah.

10 What's the difference?---Charge rate is what you charge the client, the council. Pay rate is what you pay the candidate.

Okay. So the charge rate you couldn't go over 18% on a figure that had already been agreed as part of the contract.---Yeah.

But you could negotiate with council to reduce Randstad's percentage. Is that - - -?---Yeah.

So that's how that worked.---To assist the council, yeah.

20 Yeah. And then the pay rate was the rate that was paid to the employee. Was there room for negotiation on that?---With the candidate? Yeah.

If council had reduced the amount, the charge rate, if you'd negotiated a reduced charge rate with council, would Randstad then seek to reduce the pay rate?---No.

THE COMMISSIONER: So can I just clarify - - -?---Not unless it was negotiated.

30 Is the pay rate what council pays Randstad or what - - -?---No, the charge rate is what council pay Randstad.

Okay. So the charge rate is what council pay Randstad.---Yeah.

Does that include the pay rate? Is that the whole lot?---Yeah. Yeah.

Okay.---That includes pay rate, insurances, super, and then it's plus GST.

40 Right. So the charge rate is what council pay Randstad.---Yeah.

And from that Randstad take their up to 18% and then the rest goes presumably to the worker if there's no subcontractor in the middle.---And the insurances and, yeah. Yeah.

So do the insurances come out of the 18%, for example?---No, it's Randstad fee of percentage of 18%, PL, PI, workers comp and then super.

Is on top of the 18%?---Yeah.

10 Okay.

MS HUXLEY: When you had a candidate that was about to be contracted with council and you were looking at the charge rate, was it necessary to look at the level of experience the candidate had?---Sorry?

Would you look at the level of experience the candidate had?---From a referral?

20 No, when you're assessing the pay rate, sorry, the charge rate to council, would you look at the experience of the worker that you're supplying to council?---It would depend on the role. So the charge rate, the council would give you, say, a budget that they have. That's how much they can pay. That's, can we find somebody within that for the role that they need. That's kind of how it would work.

30 So the charge rate was more set from the role as opposed to the experience of the candidate?---It would vary. Some clients would come to you going, "I need this person, market rate, find the person," so it just depends on the role. It depends on the client. It depends on the requirement.

So one relevant factor might be the experience of the person?---Yeah.

And Randstad had a pool of potential candidates at any given moment. ---Yeah.

And you would look at that pool to identify any suitable candidates.---Yeah.

40 And would that include candidates who would be willing to accept a particular salary range or a particular pay rate?---Yeah.

THE COMMISSIONER: So, Ms Kielty, you mention that from this charge rate Randstad would take up to 18% for themselves, and in addition to that, this is forgetting about a subcontractor arrangement, in addition to that would take out insurances and other necessary bits and pieces, is that - - -?  
---It's, like it's all set up, it's all set up on the contract that we would engage LGP through.

Sure.---So it's not, we wouldn't be, like, it's all already set up.

10 Yes. I'm sure it is but what I am interested in is that if we could look at it as having three components, it's what the worker gets, forgetting about a subcontractor arrangement, it's what the worker gets, it's what Randstad gets and then it's the bits and pieces for insurance and so on. Is that right?  
---Yeah, yeah.

Well do you have any rough idea of what percentage would go to the bits and pieces of insurance and so on? I mean you're getting up to 18%.  
Would there be another, roughly 10 or 20% or - - -?---It wouldn't be that much, no.

20

It wouldn't be.---No.

What would it be?---5, probably less than 5.

Okay.---Without having - - -

No, sure, I just wanted a ballpark.---Yeah. Like it's, yeah, for me when I do my job, I get the contract. I put in the pay rate that I'm paying the candidate. The contract gives me a charge rate, that's what I work off.

30

Okay.---So it's all done automated and that contract would have been confirmed with the LGP.

Okay, thank you.

MS HUXLEY: Are you aware of a person called Mr Pietro Cossu?---I am.

How did you come to know him?---Pietro was referred to me by Ben Webb.

40 So how exactly did that occur?---Either through a phone call or an email, Ben requested that we assist in bringing in Pietro onto, into council.

So would the initial conversation have come from Mr Webb?---Likely yeah, yeah it would, yeah.

And then you would have, and then would you have spoken to Mr Cossu or - - -?---Yeah.

- - - contacted, would that have come from you or from Mr Cossu, do you recall?---I don't recall.

10

So Mr Webb referred Mr Cossu to you. What were your conversations with Mr Cossu about being engaged at Canterbury Bankstown Council?---In detail, I wouldn't remember.

Do you know what role Mr Webb had proposed for him at Canterbury Bankstown Council?---Construction Team Leader.

THE COMMISSIONER: Sorry, Construction Team?---Team Leader.

20 Okay.---Construction Team Leader.

MS HUXLEY: And what was the, if someone was a full-time employee engaged as a Construction Team Leader, do you recall what the market rate for the salary would have been at that time?---No.

Could you give a range?---Not at that time, no. I, I, I honestly wouldn't know.

30 Did Randstad have schedules that would give you an idea of what the market rate was at that time?---Yeah. I would probably have asked.

Would it have been around \$150,000?---Yeah, sounds about right for a construction team lead.

Would \$200,000 be a lot to pay a Construction Team Leader?---In a council, yeah, but on a contract, probably not, no.

40 So Mr Webb referred Mr Cossu to you and you had a discussion with him. What did you then do to facilitate the engagement?---I would have set him up on our system, sent out the registration papers, client agreement and candid agreement.

I might take you to volume 3.1, which is Exhibit 30, at page 30. Do you recognise that document?---Yeah.

Is that a communication log?---Yeah.

Your communication log at Randstad?---Yeah.

10 Does that assist you in recalling how this engagement was set up?---Yeah.

And so can you tell me how the engagement was set up?---Referred from Ben Webb sending his resume and then I would have sent out the registration papers.

And if you go to page 32, there's a comment there, "Wants to go ABN." Is that a comment you made?---Yeah.

From your discussion with Mr Cossu?---Yeah.

20 And that says basically that subcontractor arrangement we were talking about earlier?---Yeah, yeah.

And then at the next page, page 33, Mr Cossu sent a series of forms, including the candidate registration. Is that something you would have caused to be sent to him?---Yeah.

And they were documents that Randstad required to be completed before the engagement could take place?---Yeah.

30 If you go to page 52 of Exhibit 30, halfway down the page, Mr Webb emails you asking for you to send through any suitable team leader construction CVs, but at this time, Mr Cossu had already been referred to you.---Yeah.

Did you think it was strange that he was asking for suitable team leader constructions CVs given that he'd already raised Mr Cossu with you?---I didn't really think about it.

And then you respond with a candidate, and it attaches Mr Cossu's CV.  
---Mm.

40

Can you say "yes" or "no" for the purposes of the transcript?---Yeah.

And you only sent one CV.---Yeah.

Did you look at the CV before you sent it?---I, likely, yeah, but I don't recall.

Is there a reason you only sent one CV?---Because the candidate was referred.

10 Even though Mr Webb had requested any suitable Team Leader Construction CVs?---It's unlikely I had any suitable ones at the time.

But you understood Mr Webb wanted you to send him Mr Cossu's - - -?  
---Yeah.

- - - CV at that time.---Yeah.

In between those two emails, there's a further email of 30 April at 9.14, you wrote to Mr Webb, "Could you please confirm the pay rate for this role and  
20 what would be the start date?"---Yeah.

And then at 2.07pm, that's when you emailed the attached candidate for the position of Team Leader Construction.---Yeah.

And if you go down to page 54, you will see the minimum salary required is \$125.56 plus GST charge rate to council.---Yeah.

Did you have a conversation with Mr Webb between those two emails where you discussed the pay rate?---Likely, yeah.  
30

And do you know how that pay rate came to be determined?---No.

Did Mr Webb suggest it to you?---Yeah, as in Ben would have told me that pay rate, yeah.

So he would have indicated that council was prepared to pay \$125.56?  
---Yeah.

Did you look at Mr Cossu's CV to see if it warranted that pay rate, that  
40 charge rate, sorry?---I don't remember.

Is that something you would normally do?---The client says to you, this is a candidate that I'd like to hire, please, this is the charge rate for the council, and - - -

Did you check that charge rate against the charge rate schedule in the contract or the Randstad systems of what the charge rate should be?---For that role, probably not, because that would be, that would be a normal amount for a role like that.

10 Okay.---125 for a Team Leader of Construction would be standard.

So that doesn't strike you as high?---No, no.

Now when you looked at Mr Cossu's CV, did you notice that there were no contact details for him?---On his original resume?

On the CV that you attached to that email.---That's a Randstad formatted resume.

20 So how does that come about? Is that one of the documents you would have requested as part of the Randstad contractual requirements?---Yeah, that's a resume Randstad would send to the client.

For them - - -?---That's a standard format resume.

And the client would then fill that in? Or sorry, the candidate would then fill that in?---With what?

30 Their CV? How does it get populated?---Their CV would have been attached to this.

But so when you say it's a standard Randstad - - -?---That's, that's a cover page or a resume.

Oh, a cover page, sorry, let's go to the next page, page 55. That's his CV and it goes to page 59. So did you notice at the time that you sent it to Mr Webb that it had no contact details for him?---I don't know if I would have noticed that. If I had already been in touch with him then I would have had his contact details.

40

Yeah, and what about, there were no referee details?---Is this his original resume?

This is the resume that was attached to your email to Mr Webb.---Okay.

Do you recall noticing at the time that you sent it to Mr Webb that it had no referee details?---No, I don't recall.

10 Did you then obtain agreement from Mr Webb to contract Mr Cossu to council?---Yes.

And you sent the required Randstad documents to Mr Webb for that to occur?---Yeah.

And is that a council-client agreement in relation to Mr Cossu?---Client agreement, yep.

20 And then there's a separate assignment agreement was sent to Mr Cossu. ---Candidate agreement.

Candidate agreement. So there's two agreements that Randstad requires. ---Yeah.

And are they stored on the Randstad system after - - -?---Yeah.

- - - they're returned signed? If you go to page 61 of volume 3.1, Exhibit 30. At the bottom of the page you email Mr Webb attaching the client agreement asking, "What time would you like Mr Cossu to start?" and then asking him to confirm you do not require references for this candidate.

30 Does that assist you in whether you noticed that his CV didn't contain any references?---When it comes to payrolling services and referred candidates, our expectation would be that the client has interviewed and conducted references. The reason for asking, "Can you please confirm if references are required," is that they, if they haven't conducted the references and require us to do so, we will, but that's why we ask the question.

So you're requesting whether they would like - - -?---Yeah.

40 You were asking for the purposes of seeing whether Mr Webb would like Randstad to conduct that.---Yeah, which would be standard practice in payrolling services.

And then Mr Webb responded attaching the client agreement in relation to Mr Cossu and stating that he had already contacted referees for Mr Cossu.  
---Mm.

THE COMMISSIONER: Sorry, did you reply?---Yeah.

Yeah.

10 MS HUXLEY: Once the candidate was engaged by council did you have any involvement in how the invoices were generated or approved?---What do you mean?

So would invoices setting out the charge rate and the hours that Mr Cossu worked at council be sent to you?---It's automated to our Invoicing and Payroll Team.

And is that a separate section at Randstad?---Yeah.

20 Do you know, once the candidate is engaged do you have to provide certain information to that section for them to set up these systems?---I would, what, what, what do you need to know?

Well, so a candidate has been engaged by council.---Yeah.

And they're providing timesheets.---Yeah.

30 So then how does that system get set up at Randstad for the payment to council and then the payment to the candidate?---It's all automated on our system so we would have - so the candidate would submit a timesheet, the timesheet would go directly to the client, the client would approve said timesheet, the timesheet would come to Randstad, Randstad's team, payrolling team, yeah, Payroll Team would pay the candidate and then that would then go through to our Invoicing Team who would then invoice.

So there was no particular person that an invoice had to be sent to, it was just automatically generated?---Yeah, but done by invoicing and payrolling team.

40 Okay. If I could take you to volume 3.1, which is Exhibit 30, at page 65. So that's a Randstad invoice to council - - -?---Yeah.

- - - for the time that Mr Cossu had worked for a particular week, that's his first week ending 10 May 2020.---Yep.

Who at Randstad is responsible for identifying who the invoice is sent to? See how it says attention Mr Webb?---That would be, so once I set up the order on the system and set up what's called the booking, which is how the timesheet is submitted, the primary contact would be who engaged our services which would have been Ben.

10

And so in order to - - -?---Sorry to interrupt, but unless it's otherwise advised. Say, some councils might say, "Invoicing to accounts payable," or invoicing to X or invoicing to Y.

Okay. So if Mr Webb wanted to change who that was sent to, how would that happen?---He would just request it and then let me know who it needs to be changed to, drop down menu, change it in our system, that will filter on through to our team.

20 But would Randstad ever kind of independently change who it was - - -?  
---No.

It would always come from the client.---Yeah, well - - -

The council.---Yeah, how would we know who they want us to invoice?

And would it have to have been from Mr Webb or could someone else at council get in contact with you and ask for that to be changed?---Someone else.

30

It could have been someone else.---It could be procurement. It could be accounts payable who have reached out.

If I can take you to page 69. In September 2020 you got a request from Mr Webb to claim weekend hours. So with Randstad was there a limitation - why was there a limitation on whether he could claim weekend hours?

---I think that would have been standard. Like, contracts with council are usually Monday to Friday, and if the hours are outside of that you would to have, ask the client if it's okay 'cause - - -

40

Okay. So it would need to be authorised.---Yeah, council would be Monday to Friday. So it would be, yeah.

Did Randstad ever monitor the timesheets to make sure that they were consistent with the contracts signed with council and the candidate?---No.

10 So if there was an agreement with council to supply a worker for 40 hours and a timesheet was submitted for, say, 60 hours, Randstad wouldn't pick that up?---Our Payroll Team might message if it's unusual, but generally if it's approved by the client, the client has approved it, then we will, our understanding is the client is approving this because the worker has done on the work.

So you relied on council to monitor - - -?---Yeah.

- - - the working hours?---If it was outrageous, like 100 hours, then our Payroll Team would, would certainly be flagging it.

20 Outside the kind of, where it would indicate an extreme level of working commitment.---Yeah.

So you've just seen that invoice that was at attention to Mr Webb, if I can take you to page 148 of volume 3.1, Exhibit 30. Can you see that that attention has now been changed to Mr Anderson?---Yeah.

Do you recall how that came about?---That would have been requested and I would have changed it likely.

30 Do you recall who requested it?---No, sorry.

So that was Mr Cossu's engagement with Council. During your time at Randstad - sorry, I'll just take you back a second. Do you recall the name of the company Mr Cossu was contracting through as an ABN contractor? ---PMLV.

And do you recall that during the period of 2021 to 2022, he came to supply other workers through PMLV?---Yeah.

40 What do you recall about that arrangement? Do you recall who suggested it?---No, I don't recall.

Was it Mr Cossu who suggested it?---Probably, yeah. Or, yeah, I think so.

Could it also have been Mr Webb who suggested it?---I don't think, I think it was Pietro.

And do you recall like what context he raised it in?---It, it would likely be on my logs if that communication was forwarded. I'm sorry, I don't recall those conversations.

10 That's okay, that's all right. It's a long time ago.---It's a long time ago.

Perhaps I'll take you to the first one that was engaged, Mr Yavor Nikolaev. Do you remember him?---Yeah.

And do you remember how his engagement with council came about?---I don't recall but it would be in my communication logs.

If I can take you to volume 26.1, which is Exhibit 54, at page 11. Do you recognise that email?---Yeah.

20

So Mr Cossu is sending you Mr Nikolaev's CV.---Yeah.

And he referred to having a site interview already and good to go.---Mm-hmm.

What did you understand that to mean?---That it was a referred candidate.

And that he'd already been interviewed?---Yeah.

30 By Mr Cossu?---My understanding would have been that he was interviewed by the client, by council.

How would you have known from this email that it was for council?---That would be the standard interviewer.

But it's from Mr Cossu at a PMLV address.---It'd be unusual that it wouldn't, it wouldn't be, it would be unusual that the council wouldn't be involved in the interview process.

40 Is that the - - -?---So I, I, my assumption would have been.

But did you assume, so you assumed that it was for council.---Yeah.

Is that because Mr Cossu worked at council?---Yeah.

And you had been involved in his engagement at council.---Yeah.

And what did you understand the reference “good to go” to mean?---Good to go.

10 Like ready to work?---Yeah, available to work.

Does it suggest that council was ready to employ him or to engage him?  
---Yeah.

So really it was just a matter of completing the paperwork - - -?---Yeah.

- - - to facilitate that engagement. Did you open his CV?---I don't recall.

20 Did you know what role at council it related to?---A surveyor.

Because of the subject matter.---Well - - -

The subject line of the email.---Yavor as a surveyor.

Okay. And did you look at what the rates for surveyors were at the time?  
---I don't recall.

30 If you go to page 15 of volume 26.1, Exhibit 54, you then send this CV to Mr Webb.---Yeah.

For his consideration. Why did you send it for his consideration given that Mr Cossu had already said he was ready to go?---I would have presented the resume to Ben as requested.

Where was the request to send it?---It would have either been a phone call with Ben or Pietro.

Do you recall?---No, I'm sorry. It would be in my communication logs.

40 In the next page, page 16, you've got “minimum salary required \$96.35 plus GST” as the council charge rate.---Yeah.

How was that figure arrived at?---I honestly don't remember. My assumption would be that that's the rate that was requested or the rate that, the pay rate was given to me by Pietro and then I put the charge rate of council on it.

So Mr Cossu would give you charge rates?---No, pay rate and then I would put our charge on top.

10 So, yeah, sorry, so Mr Cossu would identify a pay rate.---Yeah.

Who was the pay rate going to?---My, as in the pay rate - - -

What was your understanding, who was being paid, who was the entity being paid, the pay rate?---PMLV.

So you understood that Mr Nikolaev was - - -?---Employed by PMLV.

- - - employed by PMLV.---Yeah.

20

And that PMLV was then subcontracting him through you to council.---Yeah.

If you go to page 20, there's an email where you confirm you've sent Mr Nikolaev's resume to Mr Webb.---Mm-hmm.

And then you confirm a pay rate to PMLV of \$90 per hour plus GST.---Yeah.

30 And once everything is confirmed with Mr Webb, you would get the paperwork started. So you'd had a conversation with Mr Cossu and agreed on a pay rate of \$90 per hour.---Yeah.

And then you've added a certain percentage to that.---Yeah, a payrolling percentage.

A payrolling percentage.---Yeah.

40 And so why did this not, why wasn't it done as a normal contingent worker?---Because it was referred, the candidate was referred to us. We didn't source it.

By My Cossu?---Yeah.

Through PMLV.---Yeah.

So it's only when a candidate is referred by another person that it's just a payroll service?---Yeah.

10 THE COMMISSIONER: So when it was a payroll service, did Randstad have a standard percentage that they charged?---It'd be about eight to ten percent.

Right.

MS HUXLEY: Sorry, who are you providing the service to? Is it council or is it to Mr Cossu?---What do you mean?

So you talk about it as the provision of a payroll service.---Yeah.

20 But is it, the payroll service, are you supplying that service to council or is it a service supplied to PMLV? Who are you doing it on behalf of?---Well I suppose in this instance, it's PMLV.

30 So then there's further emails where you send the client agreement to Mr Cossu, sorry, assignment agreement client, and the signed version of that is at page 24 of volume 26.1. So the client company name is PMLV and you've listed Mr Cossu as the contractor name. Is that correct or is that mean to refer to Mr Nikolaev?---At the time Yavor would have been the first person I was doing this with, so I wouldn't have been a hundred percent sure how to do it.

Oh, okay. But the rate, the agreed charge rate there is 90 plus GST.---Yeah.

And that was the agreed rate for Mr Nikolaev?---Yeah.

And then at page 25, you send that to Mr Webb.---Yeah.

40 And then you go to the signed assignment agreement for the client is at page 27, and so that was signed by Mr Webb.---Yeah.

And it lists a contractor name as PMLV Consulting?---Yep.

Did Mr Webb ask to speak to you about why it said PMLV Consulting?  
---Not that I recall.

Did you ask Mr Cossu what PMLV would be paying Mr Nikolaev?---Not that I recall.

Did you have any conversations with Mr Nikolaev about the pay rate to him?---Not that I recall.

10

Did Randstad have any requirements to make sure what the pay rate was in these subcontracting arrangements?---Not that I'm aware of.

So you had no visibility of what PMLV were paying Mr Nikolaev?---No, I don't think so.

And then if you go page 95 of volume 26.1, Exhibit 54, on 2 March 2021 you emailed Mr Cossu asking him to confirm that he did not require Randstad to conduct references for Mr Nikolaev.---Yeah.

20

Why did you ask that?---It's, it, it appears that Pietro was the hiring manager, I guess.

But he had already been placed, so why are you asking after he had already been placed?---The requirement from Compliance to make sure.

How would you have known that you hadn't conducted references for Mr Nikolaev a month after he was placed?---How would I what?

30 Like, would you have been prompted - I mean - - -?---Yeah, our system would have said references.

Oh, okay.---Yeah.

So there's an automatic - - -?---Yeah. Like, we can't set it up without it requesting us to have references. So when I set it up, it would have prompted me to go I need references.

40 And that's what would have prompted you to email Mr Cossu?---To email, yeah.

Why were you emailing Mr Cossu at PMLV Consulting as opposed to Mr Webb at council given that Mr Nikolaev was contracted to council?---It was Pietro that was managing the recruitment.

And the payroll services, is this because the payroll services were supplied to PMLV?---Well, we were facilitating the payrolling services to bring a person that the council required onboard. So it was, I guess the payrolling services benefitted mutually both council and PMLV.

10 Was that an unusual arrangement at the time?---Unusual for me, yeah, but it was known, as in we had facilitated before.

When you say “we” you mean Randstad?---Yeah.

But it wasn’t common, it wasn’t a common practice to engage council workers this way, was it?---Not for me.

But across the industry?---Yeah. This would be common.

20 And at page 225 of volume 26.1, Exhibit 54, at the bottom of the page you’ve emailed Mr Webb seeking a pay rise for Mr Nikolaev.---Yep.

That was at the request of Mr Cossu?---Yeah.

And Mr Webb approved that?---Yep.

Did you not think it was strange that council was contracting - sorry, there was a contractor at council who was himself supplying workers through Randstad to council ?---My client requested it and I facilitated it.

30

Who requested it?---Council.

But who at council requested it?---Ben.

Mr Webb did?---So, as in the whole arrangement or this particular contractor?

40 Well, this particular contractor.---Yeah. Well, they, surveyors were really hard to find so I imagine that when they were able to find somebody that was quite good, they brought them on through this means.

And the whole arrangement?---I hadn't done it before.

But so was it your understanding that Mr Webb was aware that Mr Cossu was supplying workers to council through PMLV?---Yeah.

And that PMLV were paid by Randstad for the supply of those workers?  
---Yep.

10 After Mr Nikolaev was placed did you sent documents to Mr Cossu and PMLV to make it easier for him to organise another contractor for council?  
---Yep.

And they were contracts that were required by council, sorry, by Randstad to facilitate that?---Yep.

And as far as you're aware, those were signed and sent back to you?---Yeah.

20 And it was an arrangement that involved further people being employed in that way through Randstad?---Yep.

In the course of setting up PMLV as a supplier of labour, were issues raised by Randstad internally about whether council was aware of this arrangement?---I don't recall.

Were there issues raised internally about what was required to set up a subcontracting arrangement in relation to Mr Nikolaev and PMLV?---What do you mean by issues?

30 Did anyone at Legal raise concerns about how you set up a subcontractor under the contract with Local Government Procurement?---We wanted to ensure that we could do it with Local Government Procurement. We wanted to make sure that we were working within, inside, inside the contract and that we were, that we were okay to do so under the contract. So we would have sought advice from LGP.

40 And would that have come from you identifying the need to seek advice or from someone reviewing the engagement?---Both. I would have been advised of it and then I, it's likely I would have sought the advice, being the account manager.

At volume 3.2, page 190, at the bottom of that page you emailed Mr Webb asking for an email for internal compliance purposes that confirmed that Council are aware and authorised Randstad to subcontract Mr Nikolaev through PMLV and you explained in that email that Randstad will invoice Council and PMLV will invoice Randstad for Mr Nikolaev's services.  
---Yeah.

And then Mr Nikolaev will be paid by PMLV.---Yep.

10 Mr Webb responded that he was aware that Mr Nikolaev was employed by PMLV and is their candidate.---Yeah.

And the process below is agreed. Did you think to ask whether anyone else at council were aware of that?---Ben was my client. I was working with him, so no. I wouldn't, that wouldn't be, like, if a client in council asks me, or requests for something, you deal directly with that client.

Did you know if Mr Webb had any involvement with PMLV independent of Council?---No.

20

Commissioner, those are my questions. The other parties might have some questions.

THE COMMISSIONER: Yes. I'm open to the order in which other parties may wish to ask questions, but perhaps counsel wishes to ask questions for counsel, Mr - - -

MR MOSES: No questions, thank you, Commissioner.

30 THE COMMISSIONER: There's no questions from the counsel. All right then. Before we come to Mr Kielty's legal representative, what about, does Mr Trapman's legal representative, I can't remember, does Mr Trapman have a legal representative?

MALE SPEAKER: No, Commissioner.

THE COMMISSIONER: No, he does not.

40 PARARAJASINGHAM: Commissioner, I can indicate there's no questions on behalf of Mr Webb.

THE COMMISSIONER: No questions on behalf of Mr Webb. What about Mr Cossu? Mr Cossu's representative, Mr Sutton. Is Mr Sutton here? No. Yes, Mr Sutton?

MR COSSU: No, Commissioner.

THE COMMISSIONER: No, doesn't wish to ask, oh, that's Mr Cossu. Mr Cossu is saying Mr Sutton isn't here and therefore there won't be questions from that corner. All right then. All right, now then Ms Wurth, did you  
10 want to ask questions?

MS WURTH: No, thank you, Commissioner.

THE COMMISSIONER: All right, fine. Well then I think that brings us to the conclusion of your evidence. Thanks very much. You can step down.  
---Thank you, Commissioner.

**THE WITNESS EXCUSED**

**[12.21pm]**

20

THE COMMISSIONER: Now the next witness is Mr Trapman. Did you want to commence now or did you want to take the lunch break now?

MS HUXLEY: I'm in the Commission's hands. I'm happy to take the lunchbreak now or commence now.

THE COMMISSIONER: I'm not sure. Mr Trapman's here, is he? Yes, Mr Trapman is up at the back. All right, well look I suppose we may as well  
30 make a start, how about that, Ms Huxley?

MS HUXLEY: Okay.

THE COMMISSIONER: Would you like to come forward, Mr Trapman. Just come forward here, Mr Trapman. Now you may have heard me saying this to Ms Kielty, I'm not sure but in case you didn't just for certainty, at the Inquiry you must take an oath or make an affirmation to tell the truth. You must answer all questions that are put to you. You must produce any document or other thing in your custody or control which you are required  
40 to produce by summons or that I require you to produce. You must answer and produce even if the answers or production may tend to incriminate you. However, if you object to giving an answer or producing a document, your

answer or production can't be admitted in evidence against you in any civil or criminal proceedings or disciplinary proceedings. This protection does not extend to proceedings for an offence against the ICAC Act, such as giving false evidence to the Commission or it also does not extend to proceedings for contempt of the Commission. To gain the benefit of the protection, you don't need to object to answering every question or producing every item that you may be required to produce. You can take a blanket objection at the outset and this will protect you throughout your questioning. I take it that you do wish to take a blanket objection?

10

MR TRAPMAN: (NO AUDIBLE REPLY)

THE COMMISSIONER: Very well. And I take it no one wants to be heard against that. So I declare that all answers given by the witness and all documents and all things produced by the witness will be regarded as having been given or produced on objection by the witness.

20 **DIRECTIONS AS TO OBJECTIONS BY WITNESS: I DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS AND ALL DOCUMENTS AND ALL THINGS PRODUCED BY THE WITNESS WILL BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION BY THE WITNESS.**

30 THE COMMISSIONER: As I mentioned to Ms Kielty when she gave evidence, if you have any difficulty understanding any question, ask for clarification, or if you need a question repeated that can also be done. If you need a break at any time, but presumably you won't need one in the next half hour, we'll be breaking at 1 o'clock roughly, but should you need a break in the afternoon, let me know, we can take a break. Is there anything else you need explained to you at this point?

MR TRAPMAN: No, Commissioner.

THE COMMISSIONER: Okay, fine. Would you like to take an oath or an affirmation?

40 MR TRAPMAN: Affirmation please, Commissioner.

THE COMMISSIONER: Very well. I will ask my associate to administer it.

THE COMMISSIONER: Yes, Ms Huxley.

MS HUXLEY: Mr Trapman, can you describe your role at Spinifex Recruiting at around 2020 to 2022?---I was the Regional Manager for Western Sydney.

10 And what did that role entail?---Management of an internal team, recruitment team, as well as business developments.

THE COMMISSIONER: Can you keep your voice up please?---Oh, sorry.

Yeah.---So managing an internal team, business developments, budgets for my region, and delivery of strategic objectives for our company.

MS HUXLEY: Would that role include placing workers with particular clients?---Yes, yes.

20

And who were your clients at that time?---Well the City of Canterbury Bankstown was one. We had some private commercial clients as well. Some state government clients as well.

Did you have a particular industry that you focused on?---At that time I was moving into engineering and construction, that's right, yes.

And so in the period of 2020 to 2022, one of your roles would have been placing workers with clients in the engineering and construction industry.

30

---That's correct.

Were councils a big part of that work that you were doing at the time?---In the Sydney region, no, we were trying to develop, it was becoming a bigger part, yeah.

Were you primarily dealing with Canterbury Bankstown Council or were there other councils that you deal with?---No, there were some other councils that we did fewer roles with, yes.

40 Was Canterbury Bankstown Council a significant avenue of work for Spinifex in your role at the time?---Yes, it became one, yes.

Did that include the placement of contingent workers with council?---Yes it did.

Did it also include the placement of full time or part time employees with council?---No, we didn't do any permanent full-time recruitment for councils in Sydney at that time, no.

10 So Spinifex didn't do, it was focussed on contingent workers?---It, that's what we actually delivered, yes.

So that was just Spinifex's speciality.---It's what was happening at the time. We are able to provide permanent services to council as well, we just didn't at that time.

Were councils interested in that particular service?---The permanent recruitment service, not, not through us, no.

20 Can you give us an explanation of what your understanding of a contingent worker is?---It's someone who is recruited by a recruitment agency for a project or projects over a period of time, an anticipated requirement over a period of time.

So they could be employed for a six to 12 month period?---Yeah, or longer in some cases, yes.

30 When did contingent workers become a kind of common scene in the construction industry?---I don't know. I was very new to it as I mentioned, sorry.

Okay.---I couldn't tell you when.

So you haven't dealt with contingent workers before - - -?---I had, but not construction.

Okay.---Yeah. I was new to construction and engineering, yeah.

What industry were you involved with before?---Mostly white-collar work.

40 Okay.---So any office-based work, yes.

What are the advantages of using contingent workers?---For the host client, for the organisation where they are working, the flexibility of, of using them for a short period of time or a precise period of time and it's a fixed cost, I guess, as well. I'm not sure, I've never recruited, as an organisation, a temporary worker for my own organisation.

Are contingent workers more or less expensive than full time employees?

10 ---They get a casualised rate of pay which is 25% on top of what the permanent rate of pay would be, so in that sense it's, I guess it's more expensive.

Did you have an understanding of what the contractual arrangements were between Spinifex and the local government procurement company?---A hire procurement company?

Oh, sorry, procurement panel.---A very high-level understanding of it, yes.

And what was that understanding?---That we could provide contingent staff through that panel contract to councils that wish to use it.

20

And would that primarily involve councils contacting you, asking for candidates for particular roles or were - - -?---Sorry - - -

No, sorry, you answer that question first.---Yes. If we already had a relationship with them, they would, at that point say if they wished to use the LGP panel contract or not.

So was there an option to contract outside the LGP contract?---Yes, I believe there always is but again I have a high-level understanding of the contract itself. But I believe councils can choose, yes.

30

Were you aware of any requirements under the contract for Spinifex to notify LGP if there was a subcontracting arrangement that you had?---I am unaware if, if there is a requirement, yeah.

Have you heard of something called payroll services?---Yes.

What is that to your understanding?---Where you, the agency doesn't recruit the person. In other words, do a search and select campaign and then referred the candidate to them so they can payroll - sometimes they call it payroll only service. So the actual search and select element of the

40

recruitment, a normal recruitment process for a contingent worker, is not done by the agency.

And what consequences does that have in terms of Spinifex's requirements?---I'm sorry, I don't - - -

10 Like if someone's referred, does that mean that Spinifex gets a lower margin in relation to that engagement with council?---It depends on the panel contract. So, and again my understanding of our LGP panel margin, it's capped at 14.5%, I believe, for all placements done through that particular panel. But on other panels I do know there are varying rates, percentage rates, yeah.

So would Spinifex charge, say, 14% if they haven't recruited that person and it's just a payroll service?---Yes but in this particular case with the City of Canterbury Bankstown, we still interviewed them and we still registered them but we didn't go out and find them. They were referred to us through our process.

20 Referred to by who? Sorry, referred to you by who?---In this particular case, like with the City of Canterbury Bankstown?

Yep.---So we had some candidates referred to us by Ben, other candidates referred to us by PMLV.

The candidates referred to by Mr Webb, were they PMLV candidates or others?---No. They were PAYG candidates. So they were candidates that he would send us a CV and we would then put them through the process and we would recruit them ourself.

30 So what's a PAYG candidate?---Sorry, pay-as-you-go candidate. So it's a, a candidate where we employ directly and then we on-hire to the host client, such as the City of Canterbury Bankstown.

And when did he refer those - do you recall when he referred those PAYG candidates to you?---It must have been around 2020 or 2021. I can't recall precisely.

40 Was it before PMLV referred candidates to you?---I, I think so, yes, yeah.

Did he refer any candidates to you after PMLV had come onto the scene?  
---No. I don't, I don't believe so, no.

And were the candidates that he referred to you candidates that he wished to engage at council?---Yes.

So he was referring them to you so that they could be contracted to council to work?---To work in his team, yes, yeah.

10 Do you recall what level of kind of workload was coming from Canterbury Bankstown Council at the time?---At which time, sorry?

Sorry at 2020 to 2022.---It definitely elevated a lot during that entire period. At the beginning we only started with, I think, two or three project managers at the beginning of our relationship.

Do you recall about what time that was?---I, I would, I would hazard a guess, I think it's early 2020.

20 And that grew as time went on?---Yes.

Do you recall when that increase started to occur?---It was just before Ben announced the program of works, which is when they talk about the scope of works required for the coming year.

Do you remember - - -?---I don't know the month or when roughly, sorry, but that's, that's when we would hear about it, yeah.

30 Was Canterbury-Bankstown Council a big client for you?---It became one, yes.

Did you identify it at the beginning of 2020 or throughout 2020 as a potential source, big source of engagement for you?---I don't think I knew that early that it was going to become as big as it did for us, for our region at least.

Was it a significant client by about 2021?---Yes, yeah.

40 And 2022?---Yes.

Do you recall how many workers you supplied to council in 2021?---I don't

know how many placements in total but I think the, the largest amount we had at any given time was around late 20s I believe.

Were they all through Mr Webb's unit at council?---Yes, yeah.

What proportion of them was PMLV, do you recall that?---I think towards the end it would be 60 to 70%, I believe.

The remaining 30 to 40%, were they candidates sourced by you?---Yes.

10

So at the time Mr Webb's unit at council had significant workers requirements?---Yes.

Including short-term worker requirements?---Yes. I believe so, yes.

Did Mr Webb ever talk to you about why that was the case?---Oh, the expanding program of works, the, the more projects basically, was my understanding.

20 You understood there was a significant increase in works at Canterbury Bankstown Council?---Yes, yeah.

Over the period of 2021?---I, yeah, I believe so. I, yeah.

And going into 2022?---Yes.

How did you know Mr Webb?---We grew up in the same town together.

Did you keep in touch?---From high school, no, actually.

30

So was it you who got in touch with him in your role at Spinifex or did he get in touch with you?---He emailed me actually, yeah.

Do you recall when that would have been?---It was either late 2019 or early 2020, somewhere around there.

Is that when you started in this new role?---I'm sorry?

40 Sorry, is that when you started in the role moving into construction at Spinifex?---I, I, I started with Spinifex in June 2019. So it was not, not long after.

And did you come to know a person called Mr Cossu during 2022 or 2021?  
---Yes.

How did that come about?---Ben introduced Pietro via email.

Was there a context to the introduction or just - - -?---Yes. The context was that Pietro might have some people suitable for, for work.

10 Did you know that Mr Cossu worked at council?---Yes.

THE COMMISSIONER: Did you understand that right from the outset of your relationship with Mr Cossu that he worked at the council?---No. Not, not at the beginning.

When and how did you find out?---I met with Pietro in my office in Parramatta and we, we discussed the connection and then at that point I realised that he was working at council, yes.

20 And this was before you had any subcontracting arrangement with PMLV?  
---That's right, yes.

So while I've already interrupted, Ms Huxley, can I just go back to something that was covered a little earlier? That is Spinifex was on this LGP panel - - -?---Yes, Commissioner.

Do you know what the sort of procedure was to get on that panel or stay on that panel or what the relationship was between Spinifex and LGP on an ongoing basis?---There is a tendering process. I'm not a part of that process  
30 but there is a tendering process the contract life, I believe, is I think three or five years and then it has to be renewed. You have to retender to become a panel member. But that's my, that's my level of understanding of it.

And when you say you tender, what matters are put forward as part of the tender? I mean, your charge rate or your percentage, if you like?---Yes.

And what else?---All of the on-costs break down, so public indemnity, sorry, professional indemnity, public liability, workers comp, the total on-cost package.

40

And do you understand that's for the purposes of identifying the total cost or for the purpose of checking - - -?---Yeah, I believe so, yes.

- - - that you've got those sort of requirements ticked off or?---That's right.

Both?---You do have to produce documentation that you can, you do have PI, PL, workers comp package in place and whatnot, yes.

10 So is it to show (a) that you've got it and (b) how much you'll be spending on it or - - -?---I, I believe both.

Right.---But again, my knowledge is very high level of that tender process.

And do you have any high-level understanding of what those on-costs would be in the percentage sense?---Yes, I believe, and please don't quote me on this, I believe what - - -

20 Well, I can't guarantee that.---Sorry, that was sloppy on my behalf. What I meant to say is I believe it's roughly 14 or 15% for white-collar work and it's upwards of 20-something per cent for blue-collar work where the risk of work is inherently higher.

Okay. Thank you.---It's around that figure. I don't know precisely the percentage.

Thank you.

30 MS HUXLEY: Did you have a conversation with Mr Cossu whilst you were working at Spinifex about supplying people to council?---Yes.

Can you tell us a bit about that conversation, what you recall of it?---Sure. So this is again the first meeting that we had together when I first met Pietro. He discussed that he had worked on projects with Ben before in the previous years, how they knew each other, the type of people that he often is working with and around, his network, so to speak, everything from engineering and also engineering support type roles, like contract administration, project administration and stuff like that. So we discussed those types of roles and the types of people that he could have access to.

40 And was there a discussion about who these organisations would be supplied to, sorry, who these contractors would be supplied to?---Yes.

And what was that?---City of Canterbury Bankstown, yes.

And was the unit that they would be working in identified?---I don't recall if it was but I think it was obvious. It was Capital Works Division.

So Mr Webb's.---Yes.

Yeah.---Yeah. Yeah.

10

Was there discussion then about how that arrangement, what that arrangement would look like?---Yes.

And what was that discussion?---That PMLV would be the employer contracting through us and we would be charging them to the City of Canterbury Bankstown.

At the time that was raised you understood Mr Cossu was employed by council, or engaged by council?---Yes. Yeah, shortly thereafter, sorry.

20

So you understood that. So you became aware that he was engaged by council after that conversation.---Yes.

Okay.---Yeah.

When you became aware that he worked for council did it strike you as odd that he would then also be supplying people to council through PMLV?  
---Odd, no, I don't think odd. Different or strange for me because I had never been in that situation before myself professionally, yeah.

30

What do you mean by that situation?---Well, I had never engaged with a subcontractor prior.

So this was your first subcontracting arrangement.---That's correct. That's correct.

Have you done any since?---Not placements but we have represented some contractors since then for roles that come up, though I haven't placed or confirmed any, no.

40

And when you mean - you've represented some contractors, is that a circumstance where a company, that Spinifex is engaging a company and then that person is engaged as an ABN contractor under that company?  
---That's correct, yeah.

But the person isn't also supplying other workers, are they, or is it?---In some cases there have been one or two, yes, that's correct.

10 Okay.---But again we haven't filled those roles but we haven't represented them, to answer your question.

And so as part of that arrangement then, so Spinifex charge council, is that what's called a charge rate?---That's correct, yeah.

And then Spinifex pay PMLV.---The subcontractor, yes.

20 And then what was your understanding about how the worker was paid?  
---Was engaged with either a fixed term or a permanent full-time contract with PMLV.

Why did you think they were engaged as a fixed term or permanent contract with PMLV?---They were the conversations that I had with Pietro, the types of engagement. It could also be another ABN contractor working directly or a subcontractor.

What was your understanding as to what the worker would be paid by PMLV?---Well, less than what we were paying the subcontractor certainly.

30 So that PMLV could make a profit off the engagement.---Yes, but, I mean, also, absorb other costs. From what I understand there was some training that was paid for. There was some, I believe a vehicle was also provided to one of the employees as well, other costs as well, but I don't work for PMLV so I can't prove that.

Was your understanding based on conversations you had with the worker or with Mr Cossu or someone else?---With Mr Cossu and also one or two workers from memory as well, yes. Certainly not all of them.

40 Did you have any understanding of what their leave entitlements were in relation to PMLV, their contract with PMLV?---I was under the understanding that they were still paid while they were away.

So they basically had leave entitlements.---Yes. Yes.

Where did that understanding come from?---From my conversation with Pietro.

And so what, in your mind, was the benefit to the worker going through PMLV as opposed to Spinifex just contracting them themselves?---To have guaranteed payment while they were away, or not working on site. And again there was some training opportunities, as if they were working for another company that would provide those added benefits to an employee.

And that was something Spinifex didn't provide.---No, no we don't.

You don't provide any leave entitlements.---They get a casualised rate of pay which is 25% on top of the rate of pay to allow for those, but you're right. When they're not working they don't get paid.

Do you recall when the first conversation you had with Mr Cossu occurred?---Not the precise date, no, sorry.

I take you to volume 3.2, page 17, please. So that's an email from you to Mr Cossu at a PMLV Consulting address.---Right. Yes.

And you refer to it being "nice to talk to you earlier".---Mm-hmm.

The date of that email is 25 January 2021. Would that have been around the first time you spoke to Mr Cossu about this arrangement?---Possibly, or just prior to that, I believe, yes.

Yeah.---It could have been later in the year of 2020 as far as I can recall.

So it may have been late 2020.---It could have been, yes.

And then early 2021 there's this email to progress things.---That's correct, yes.

And the conversation that you've just given evidence about the content of, is that likely the conversation that you're referring to in this email?---Yes.

40

And you sent through the ABN contractor form so that you could set up PMLV as a subcontractor.---That's correct. It's a subcontractor statement, it's called.

In that email you say, "Mr Webb would prefer our electronic timesheet process." So had you spoken to Mr Webb about this arrangement?---Yes.

10 Do you remember what that conversation was?---Yes, that we could have some people that would be working through a subcontractor, PMLV Consulting.

Did you say to Mr Webb that Mr Cossu was involved with PMLV?---Yes.

Did you say that to him or did he say that to you?---Oh no sorry, I assume, well, Ben introduced me to Pietro.

20 And when he introduced you, what did he say?---As I mentioned earlier, Ben said that they'd worked together on previous projects and that he was someone that had a good network of good, qualified people that were readily available and it would be good to, to connect.

So you understood Mr Webb was fully aware of the arrangements - - -?  
---Yes, yes.

- - - with Mr Cossu and PMLV.---Yes.

30 You asked PMLV to attach certain documents relating to various insurances. Was that for Spinifex compliance purposes?---Yes, and, and, from what I learned, because this was the first time I had engaged a subcontractor, that was our process, yeah.

So Spinifex would do some investigation to make sure that there were adequate insurances in place.---Yes.

Did they do any investigation in relation to what the underlying contracts were with the workers supplied?---I don't understand your question.

40 Sorry. Did Spinifex ever ask to see the employment contract between PMLV, for example, and the - - -?---And a, and a worker? No, we never requested that.

In that email, you also say Ben has also confirmed a pay rate of \$84.85 per hour.---Mm-hmm.

Is that a pay rate to PMLV?---That's, yes, that's correct.

So why is Mr Webb confirming what the pay rate is?---I imagine he figured that that's--

MR PARARAJASINGHAM: I object, Commissioner.

10

THE COMMISSIONER: Yeah.

MR PARARAJASINGHAM: We're entering the realms of speculation here.

THE WITNESS: I don't really - - -

THE COMMISSIONER: Yeah, yeah, that's all right.

20 MS HUXLEY: But so had you had a conversation with Mr Webb where he confirmed a pay rate?---Yes, for project managers, I believe at the time, I think it's a Project Manager. Yes, yes that's, I assume that that was because he was discussing he had a need for some project managers and that's how he gauged the pay rate for project managers at that time I believe.

But that pay rate is a reference to what PMLV would be paid?---To either the person or the subcontractor.

30 Yeah.---The pay rate is for the person or the subcontractor. The charge rate is for the client.

THE COMMISSIONER: Hang on, I'm getting a bit confused here. I thought the \$84.85 was what PMLV would be paid.---Yes.

Right, okay.---That's correct.

MS HUXLEY: If I go down to page 26 of that volume, this is on the same day, and you send an email to Mr Webb and in the subject it's "PMLV Consulting Project Managers."---Yeah.

40

And you say that you're off the phone with Mr Cossu.---Yes.

Who has one starter for Wednesday and up to five project managers coming up in total. So you were letting Mr Webb know that there was a potential candidate to start on Wednesday with more to come.---That's correct.

Was that, when you say “off the phone briefly with Mr Cossu”, would that have been a reference to your earlier conversation?---I, well I imagine so, yes.

10 And in that, you tell Mr Webb that PMLV Consulting will be the ABN contractor with multiple candidates.---That's correct.

And council would supply - - -?---That's correct.

- - - payrolled an invoice through Spinifex. So is that a reference to the payroll services?---Yes, it is. With the addition that we still interviewed them, the people that was working with PMLV.

20 So you conducted the interviews for PMLV?---That's correct, a phone interview, yes.

And did you do any reference checks?---No, we didn't do any reference checks. We confirmed a VEVO, the immigration, working rights checks, and discussed the candidate's background as per the CV that Pietro supplied.

30 Why would you do that if PMLV were the company employing these people?---It was a part of our internal process to make sure we had at least met the people, we had confirmed their working rights, and we got them to complete the registration form as well to update our CRN.

Would you contact any referees?---No. As, as mentioned no, we didn't do reference checks on subcontractor employees.

Okay. And you've indicated there that you sent out the ABN contractor forms to Mr Cossu to get the ball rolling.---Yeah.

40 And is the reason they were sent to Mr Cossu because he was the person responsible for PMLV Consulting?---That's correct.

There is then, you then confirm the pay rate and the charge rate.---That's right, yes.

And the pay rate is what you'd communicated earlier to Mr Cossu as the PMLV pay rate.---Mm-hmm.

And then there's a charge rate of \$98 plus GST.---Yes.

Was that what council would be charged?---Yes, that's correct.

10

If you go up to the page before at page 25, Mr Webb says, "Thanks Ben, yes, that will work." So what was the benefit to Spinifex in this arrangement that they could charge payroll service fees?---Yes, that we, we could get a bigger headcount with our client, a headcount is what we call for contingent staff working with the clients, yeah.

And what, I mean was that a performance measurement at Spinifex for you?---Yes, for all of our consulting, recruitment consultants, yes.

20 So did you get a commission per placement?---Yes, but only if I reached a certain bonus point per month. The commission was paid above that.

So how does the bonus point system work?---It's based, it's a calculation based on someone's base salary.

So you're incentivised to provide as many workers - - -?---Yes.

- - - for as high a price as possible?---Yes, yeah.

30 And it didn't matter if those workers were supplied as referrals from subcontractors?---No.

Or from your own pool of candidates?---That's correct, no it did not matter either way.

Did Spinifex have any role in checking on PMLV candidates during the period of time they were contracted to council?---Yes.

40 And what was that role?---Phone calls with their direct supervisor.

Why would you do that?---Because we would check off on everyone that that's working on behalf of Spinifex Recruiting.

And you said that you'd also speak to their direct supervisor.---Yeah.

10 Do you recall who that was during this time?---Well for different people who were in different roles, it could have been Ben Webb, for the most part it was Ben. In other cases it was other line managers, so someone in design, in the architectural design team for example. In the communications, the project communications team had a different supervisor as well.

When you spoke to people other than Mr Webb at council, was there any mention of the fact that a particular contractor was a PMLV contractor?---It did come up towards the end of the time when we had PMLV contractors working with us, yes.

Do you recall when that was?---No, I don't recall the precise date, no.

20 And how was it raised, who raised it?---I believe, I can't remember the person, but I do remember that it was raised. It was another contractor, in fact.

Another contractor engaged by Spinifex?---That's right, yeah.

And did they raise it with you or with - - -?---Yes, with me directly.

And what did, do you recall what they said to you?---They just wanted to know if there were people working for a subcontractor in the division.

30 And what did you say?---I said, I told them that we don't discuss other people's contracts with them.

Did they say anything else?---No.

Do you recall their name?---Yes.

What was it?---I believe it was Faiza, Faiza Bhuiyan.

40 Did she raise anything else with you about that arrangement?---No, no.

Do you recall anything, did you do anything about that?---No.

Did you speak to Mr Cossu about it?---I can't, I don't recall. I may have. I'm not sure, I'm not sure. I don't remember actually.

Did you speak to Mr Webb about it?---No. I'm pretty sure I didn't speak to Ben about it.

10 Were you concerned that other - did you have any concern that other contractors might find out about it?---Oh, concern. Not particularly but, again, it's a confidential agreement between two parties, not necessarily the person who's raising the question. So - - -

Was anyone else at Spinifex aware that staff were being supplied as subcontractors through PMLV?---Yes. The, the, the senior management team helped me to onboard subcontractors.

So they were the ones that identified the agreements that needed to be in place?---And the process, our internal process, yes.

20 Did that process require any confirmation being obtained from council about their awareness of PMLV?---I don't think so.

Who did you have the most contact with, in relation to these arrangements with PMLV? Was it primarily Mr Cossu?---Yes.

Would you also speak to Mr Webb about it?---Yes.

30 And what were the nature of your conversations with Mr Webb about it?  
---- The types of people that he was looking for.

Was there discussion with Mr Webb about how they were to be engaged?  
---How, as in through the subcontractor or directly through us?

Yeah, yep.---No, I don't believe so, no.

So you didn't have any conversations with him about whether should be engaged through PMLV or through - - -?---No. I'm quite confident that that was not a conversation Ben and I had directly.

40 But did you have that conversation with others?---Others as in someone, other people at my company?

Or Mr Cossu or any of the employees?---Oh, yeah. Definitely, yeah.

Sorry, the contractors.---Yes.

Did you speak to the contractors about whether they would like to go through PMLV?---Yes. Some, some of them, yes. But those who said they were looking for some stability of permanency or something different than just a PAYG contract with Spinifex, yes.

10

Did any of them inform you what they would be paid by PMLV during those conversations?---One of them did, yes. He showed me, he went me his employment contract.

And did you read that?---Yes.

Did you see what he was being paid?---Yes, I did.

20 And do you recall what it was?---It was, I think mid-40s, or late-40s, dollars per hour plus super, I believe.

Do you recall what the pay rate to PMLV for that contractor was?---No. I, I can't recall. It might have been late 80s, early 90s. I, I don't remember precisely, no.

Did that strike you as a large discrepancy?---Yes.

30 Do you recall when in the two-year period that you became aware of that? Was it early on in the supply or towards the end?---No. I think it was well, well into the relationship I think.

Did you raise any concerns with Mr Cossu about that?---I don't believe so.

Did you raise any concerns with Mr Webb about that?---No.

THE COMMISSIONER: When you get to a convenient point, Ms Huxley, we'll take the lunch break.

40 MS HUXLEY: Oh, no, I think we can take the lunch break now, Commissioner. I'm coming to another topic.

THE COMMISSIONER: All right then. Well, we're going to take a break until about 2 o'clock. So, if you could step down. Thanks.---Okay, thank you.

Until that time. I'll adjourn.

**LUNCHEON ADJOURNMENT**

**[1.04pm]**