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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 2.00PM

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

MR SUTTON: Commissioner, before the inquiry continues, can I announce my appearance and apologise? My name is Sutton, S-u-t-t-o-n. I'm for Mr Cossu.

THE COMMISSIONER: Yes.

MR SUTTON: And unfortunately I was at Sutherland Local Court this morning with some unavoidable engagements.

10 THE COMMISSIONER: No problem, Mr Sutton.

MR SUTTON: Thank you, your Honour.

THE COMMISSIONER: You've missed some important words but no doubt you'll catch up.

MR SUTTON: I'll be reading the transcript with eagerness.

THE COMMISSIONER: Yes, all right.

20

MR SUTTON: And, your Honour, can I indicate and apologise, I'll be in the same situation tomorrow.

THE COMMISSIONER: Yes. No problem. Yes, Ms Huxley.

MS HUXLEY: Mr Trapman, could I just take you back to - - -

THE COMMISSIONER: Oh, actually, sorry, Ms Huxley, sorry, can you just bear with me for one second while I just open this? Sorry, yes, please go on.

10 MS HUXLEY: Thank you, Commissioner. Mr Trapman, could I just take you back to volume 3.2, page 26, and see there's a pay rate there, and a charge rate there. Can you just explain again what the pay rate is?---The pay rate is the pay rate to either a candidate or the subcontractor.

And so in this, given the context in which this is raised in relation to PMLV Consulting providing multiple candidates to council, is that pay rate to the candidate or to PMLV Consulting?---That would be to the subcontractor in this example and I was, I was giving an example of the most recent project manager that we have placed on the pay and charge rates.

20

But so that's a pay rate to PMLV?---That's correct. For this, yeah. And in - - -

For this particular engagement?---For this particular engagement, yeah.

And then the charge rate of \$98 plus GST, that's what council is charged for that engagement?---That's correct, that's right.

30 And earlier you gave some evidence about seeing an employment contract. Do you recall who that employment contract related to?--- Mohamad El Halabi.

And that was a contract between PMLV and Mohamad El Halabi?---That's correct, yeah.

And can you just remind me what the rate identified in that contract that was paid to him was?---Again, I don't remember precisely but I think it was mid- to late-\$40 per hour plus super.

40 So PMLV - do you recall what the pay rate to PMLV was for that particular candidate?---No, I do not, no.

THE COMMISSIONER: I think you indicated, it sounded like it roughly double or almost double?---I, I, from my recollection, I think so, yes.

MS HUXLEY: How did you come to see that employment contract with Mr El Halabi?---He was unsure, I think it was his first, from memory, it was his first Australian employment contract and he wanted me to review it.

10 And did you say anything to him about the contract?---Yes, I gave him some advice, yes.

What was the advice?---I think it was about superannuation. I, I believe the superannuation was outdated. I think it was a generic statement in the contract about superannuation in terms of the percentage.

Did you go back and have a look at the pay rate to PMLV for that particular candidate?---No. I don't believe I did, no.

20 And you didn't inform him of what PMLV were being paid?---No, no.

Why not?---Oh, we never speak about rates with parties unless the rate relates to the direct person.

I mean, but it did relate to him as a candidate?---Yes, but in terms of what he was getting paid. Again, we don't discuss contracts unless they were with the direct person that's asking about them.

30 When you sent candidates through to Mr Webb, was it your practice to identify that a candidate was a PMLV candidate?---I think so from, from memory. I would have to look at the cover sheets where we do put their CV into it but we certainly did with the quotes as well, and we would name the candidate in the quote and I would put PMLV Consulting next to the name of the person.

Were there instances that you recall where Mr Webb would reject a PMLV worker?---I can't remember if he did or he didn't. Yeah. I'm not sure.

40 Were there instances where you proposed multiple candidates for a role to Mr Webb?---Yes.

And in any of those instances was there a PMLV candidate and then a Spinifex candidate?---At times I think, yes, that's true.

And in any of those instances do you recall whether Mr Webb expressed a preference for a PMLV candidate?---Yeah, there would have been, yes.

10 Did Mr Webb have a preference for PMLV candidates during this time?---I don't think so. I mean, the numbers at the end when we finalised the working arrangement, there, there was definitely more PMLV candidates that non-PMLV candidates, that's correct, but I don't know if he had a preference towards them during that process.

Do you recall the first contractor that you placed through the PMLV arrangement with council?---No, I don't.

20 I'll take you to an email dated 29 January 2021 in volume 2, page 62. You'll see the second email from the bottom of the page, Mr Cossu is emailing you from his PMLV Consulting address with a potential candidate's details.---Yes.

And he says, "to start on Monday".---Yes.

Did you understand that to mean that the candidate would be starting work at council on Monday?---Yes.

30 And then if you go up to the top of the page, the email sent by you to Mr Cossu, "Great. Just off the phone with Melanie. All sorted." Does that refresh your memory that Melanie Chaparro was the first contractor you placed?---Yes, it does. Yep.

And do you remember that first conversation you had with her?---Oh, not in detail but I do remember speaking with Melanie, yes.

About the engagement with council?---Yeah.

Do you recall what was said?---We spoke about the role, we spoke about her background because I had her CV at that point. Yep. She was working with PMLV Consulting.

40 And then if you go down to page 68. Maybe go to 69 first. At the bottom of that page you've attached CVs of Mr Rafla and Mr O'Halloran.---Yes.

Do you recall what those roles were for?---I believe it was project manager as well. Both Mat and Jason are project managers.

And was that the same role that Ms Chapparo would be performing?---It, it could, it, it more than likely is, yes.

And then Mr Webb asks if Mr Rafla was still available and if he could interview him.---That's right, yeah.

10

And then if you go up to page 68, you respond and you ask if he would go through PMLV or through previous contracting arrangement. What did you mean by that?---The previous contract, as in, as in direct, a PAYG worker.

So, direct through Spinifex?---That's correct, yep.

And why were you asking that?---Because Melanie was provided by PMLV. Is this still regarding Melanie's role?

20 No. So if you go to the first part of the email, "Morning Ben. Yes, he is available and keen for Thursday or Friday." And then you say - - -?---Oh, sorry, this is for Mat Rafla.

- - - "If successful would he go through PMLV or through our previous contracting arrangement?"---Sorry, that's for Mat Rafla, yes.

Yeah.---He, he's suggesting, no, it'll go, it'll be a PAYG candidate through us.

30 Yeah. But why did you ask him whether it would be through PMLV or through the previous contracting arrangement?---Oh, because I was just wanting to clarify. It was pretty early in the relationship with the subcontractor.

But why were you asking Mr Webb? Is it Mr Webb's decision whether it's PMLV?---No, it's not, actually. I, I think it was, I was just naïve and new to the whole situation so I wasn't sure. I was just trying to get clarity around it actually.

40 Did you think that Mr Webb had some sort of decision-making capacity with PMLV?---No. I was never under the, I've never been under the

understanding that there was any connection there, or decision making for either subcontractor or an individual PAYG, but again I, it was very new to me so I just wanted to clarify.

And his response is, “No, this fellow is your staff so it would be through your contract.”---Yes.

You've also referred there to Ms Chapparo being signed up and more expected through PMLV Consulting.---Yes.

10

Why were you telling him that there was more expected through PMLV Consulting?---It was off the back of the information I got from Pietro that there were more to come, more project managers to come.

And did you understand Mr Webb at that time had a need for project managers?---Yes.

Do you know why that was?---I, again, I'm not sure of the dates but I believe that's when the program of works was starting to ramp up.

20

Would the program of works have been announced as at this time in 2021, February 2021?---I can't recall, I'm not sure actually on that actual date.

Were you aware of anyone else at council knowing about this arrangement to subcontract through PMLV as at February 2021?---No. No.

Or throughout the time until Ms Bhuiyan raised it with you?---No.

30 Did you ask Mr Webb if there was anyone else at council who knew about this arrangement?---No, I did not ask him.

At the time that you sent this email to Mr Webb on 1 February 2021 saying Ms Chapparo signed up, had you sent Ms Chapparo's CV to Mr Webb?---I can't recall, I'd have to check the records. I'm not sure.

Was it your practice when engaging PMLV workers to contract to council to send Mr Webb PMLV candidate CVs?---Yes.

40 And get Mr Webb's approval to engage them?---Yes.

If I can take you to volume 3.2, page 149. This is an email between you and Mr Cossu on 26 February 2021. And you refer to a conversation that you had with him that afternoon. Do you recall what that conversation was about?---No, I do not.

10 You refer to the prospect of new people coming on board through Spinifex and invite him to engage with Spinifex if he thought the rate should be higher or lower than the agreed current rate. What rate is that referring to? Is that the charge rate or the pay rate?---That'd be the pay rate which affects the charge rate, yeah.

So does that mean Mr Cossu had the ability to dictate what council was charged by dictating what his acceptable pay rate was?---He could certainly indicate the pay expectations for roles that he was putting through us, yes.

Would you compare the candidates he proposed, would you look at the candidates that he proposed, their CV, to see what their experience was and what the rate they could achieve at market was?---As a general practice, yes.

20 And would that inform the pay rate in any way?---Sometimes. I mean we're often asked to benchmark salaries and pay rates for, for various roles.

Later on in that email, you say Mr Webb gave you, you say Ben, is that a reference to Mr Webb?---Yes.

And you say he gave you the okay for both pay and charge rates from the beginning of this campaign.---Mm-hmm.

30 What campaign are you referring to?---It was probably for a bulk campaign. It could have been project managers. I don't recall in this instance, but it was likely, it was probably in line with the program of works or the heads up that there were going to be increased numbers required at some point.

Was it a specific reference to the PMLV engagement of workers through PMLV?---No, it would have been for positions, for roles in general, regardless of whether they were subcontracted or PAYG.

40 You say he gave you the okay for both pay and charge rates from the beginning of the campaign. Why did he approve the pay rate?---Well it was an indication so when we go to market, we know we can talk to candidates about certain pay rates. So I imagine, you know, I don't recall the precise

details, but I can, I can imagine very well that he would have said yes, this, this dollar amount for this particular role is acceptable.

Were you concerned at this time to ensure that candidates put through PMLV, that the arrangement with candidates through PMLV resulted in a profit for Mr Cossu?---Was I concerned that a subcontractor was going to make a profit? No. In general no.

10 So why were you saying to him that the rate could be negotiated to be higher or lower?---Depending on the seniority of the role and the role itself. So someone with more experience would command or expect a higher pay rate in general.

So does that mean you're inviting him, if he had a more experienced candidate, it would be open for him to negotiate a higher rate?---Yes, that's correct, yeah.

20 The candidates that were proposed by PMLV, were they in general quite experienced or not experienced or did he have - - -?---I think it was a mix, from memory.

A mix.---It was a mix, yes.

So there were some very experienced people referred to by PMLV?---Yes, definitely, yeah.

And did they command a higher rate, a high pay rate?---I believe so from memory, yes.

30 And the lesser experienced ones were given a lower pay rate.---That's correct.

If I can take you to page 213 of that volume 3.2. This is in September 2021, an email from you to Mr Cossu referring to a particular candidate, that he won't work for less than a particular rate. So, and you say, "I can supply to Ben, therefore I can't put him through PMLV." Is this an example of you identifying a potential candidate for Mr Cossu to engage through PMLV? ---That's right.

40 And he couldn't go through PMLV because the candidate wanted the maximum rate available.---That's, that's right, yeah.

Isn't it the case that people would always want the maximum the pay rate available.---Generally yes, in some circumstances again, they would want some sort of stability, so the type of contract that could be on offer may vary which we can only offer a casual employment contract, yeah.

Did you ever ask any of the PMLV candidates whether they wanted to achieve the higher casual rate?---Not explicitly, no, I don't think so, no.

10 Was there a reason for that?---No.

In that email, you also refer to having two more candidates who will be cheaper, so what were you referring to there?---Less experienced, I imagine.

Were you proposing them as potential candidates for PMLV to engage?
---Yes.

And at page 222 of volume 3.2, you say, "As discussed, I put Ally in as a project officer." Is that a PMLV candidate?---Yes.

20

And Najee, also a PMLV candidate?---Yes.

And then is Sam also a reference to a PMLV candidate?---Sorry, Sam?

Sorry, it's the next sentence, next, no - - -?---No, that was the candidate from our database.

Okay.---Yeah.

30 So why were you asking Mr Cossu if Sam would be happy with a small increase to do a TL role?---I, if Sam, oh, the, I believe that they were trying to promote Sam to a team leadership position and it was just a very small increase for a TL role compared to a non-Team Leader.

And then that next paragraph you're again proposing another candidate for PMLV.---That's correct, yes.

You refer there to "plenty of room for PMLV." What do you mean by that?---There's margin to employ, engage and put them through under the subcontractor.

40

So does that mean Mr Calhoro would be happy with a lower pay rate than what he would receive if he was a - - -?---Yes, I imagine that's what that means, yes. Yeah.

And why were you assisting in identifying suitable candidates for PMLV?
---It was for people who were interested in a different type of contract, as I mentioned before. I don't, I have to go back and check the records on (not transcribable) but I can only imagine that that was the case as well.

10 Is it the case that as time went on you would be more proactive in presenting candidates to PMLV?---Yes, that's true.

And to Mr Webb as proposed candidates?---I was always trying to propose candidates to Mr Webb, yes.

Would you propose candidates to Mr Webb unsolicited?---Sometimes if we had candidates that were interested in opportunity and there wasn't an active role that we had on our, on our books, yep. We would do that for most clients that we worked with if we know that they have a net, well, they
20 would use that time of resource, but we don't necessarily an order to, to fill, yes. We would propose people.

THE COMMISSIONER: Mr Trapman, at this time, say 2021, was it easy or difficult to get candidates for project officer and project manager roles?
---Project officer was a bit easier but project managers have always been a bit of a challenge, yes.

What, for a number of years they've been a bit of a challenge.---Yes.

30 So would I be correct in thinking then that project managers can pick and choose a bit?---Definitely, yeah.

So would I also be correct in thinking that project managers needn't worry so much about continuity of employment because they will always be in demand?---That's a fair assessment, yes, yeah.

So why would a project manager want to go through the subcontracting arrangement where they earn less money if their ongoing employment or ongoing engagement was more or less guaranteed due to demand?---I don't
40 know.

You don't know.---It's a good question, no.

Okay.

MS HUXLEY: Were there occasions when you would be sent a candidate by Mr Cossu and told by Mr Cossu that the candidate would be starting on a particular date?---Yes.

10 And you would then send the documents to Mr Cossu for the candidate to fill out?---No, I would, as I mentioned earlier I would call the candidate and then connect with them directly and send them the documentation.

Did Spinifex require any documentation from council to engage the candidate?---A signed quote and a written statement saying they agreed to engage the candidate, just via email.

And so were you responsible for doing that, for getting that signed quote? ---Yes.

20 And did you do that with - - ?---I think in most occasions, yes. I can't say that it was for every single role we placed, yeah.

Would you do it through email?---Yes.

THE COMMISSIONER: Sorry, are you saying that for a PMLV candidate Spinifex would need a signed quote?---For any candidate, including subcontractor.

30 For any candidate a signed quote, and what was the other thing?---An email confirming after they had interviewed the candidate that they wish to engage.

Okay. Thank you.

MS HUXLEY: And in relation to placements at council would that be through Mr Webb?---Yes.

40 Do you recall putting a candidate called Lionel Kools in touch with Mr Cossu?---Yes.

For him to be contracted to PMLV?---Yes.

And was he then ultimately contracted to council?---That's correct, yes.

If we can go to volume 3.2, page 254. Down the bottom of that page is an email from Ms McEwan to you. Who is McEwan?---She was Ben's EA.

And she was asking for market rates for a range of positions.---That's correct, yeah.

10 You then forward that to Mr Cossu.---Mm-hmm.

Asking for his input on the money for each role.---Correct.

And you say, "To make sure if we get them on PMLV is involved." What did you mean by that?---Well, Pietro has always had a good network. That's one of the reasons why we thought it would be wise to engage with him. He had a network of people. We would like to get his take on the market value for these roles. They're not the sort of roles that we have got a lot of experience placing. Some of them are very niche.

20

Was it to ensure that the money identified for each role was sufficiently high enough to enable PMLV to achieve a margin on those roles if those - - -? ---That was not my motivation. It was to be sure that we could capture candidates at a certain price.

But then why would you need to refer to the need to "make sure if we get them on PMLV is involved"?---Again because I, I was unaware at the time what a Water Service Coordinator Design would be, would be earning, for example.

30

For the list of those positions did you have any of those positions on Spinifex books independent of PMLV?---Yes, there were some draughtsperson, some junior draughtsperson, from memory, yes.

Were there any other ones? Any engineers?---Yeah, there would be some engineers.

And some surveyors?---No, we didn't have any surveyors. This is end of 2021. No, I would say no to surveyors. The ASP electrical engineer, no.

40 That's always been a hard one to find.

If you go to page 263 of volume 3.2, this is an email from you to Mr Cossu on 10 December 2021 and it refers to - there's a reference to "these", having a look at the context of that email is that a reference to some CVs that Mr Cossu had sent to you?---I think so, yes.

And you describe both as junior.---Yes.

And then you say, "Unsure if Ben will accept the dollar rate for inexperienced people."---Mm-hmm.

10

What are you referring to there?---It will be a comparative role for the Project Officers that we had already engaged, I imagine.

But is the dollar rate there the charge rate or the pay rate?---I, it would probably be the pay rate.

The pay rate to PMLV.---Yeah.

And that dictated the charge rate.---Yeah, it always does, yes.

20

You say, "Let's talk before I present them to Ben as I need to supply comparative CVs to satisfy council procurement rules," did you talk to Mr Cossu about these candidates?---I can't recall. I imagine I would have.

Do you recall if you ever put these two candidates forward for a role?---I don't know who the candidates are.

Yeah.---I can't, I'm sorry, but I probably would have, to answer your question, yeah.

30

Do you recall if Mr Webb agreed to engage either of those people?---I don't know who the people are so I'm not, I can't remember, I'm sorry.

So if you go to page 264 of volume 3.2 you say, "Angela has requested rates for Lionel, Noor and Dalal and Ben wants to on-board them for the 17 January start." Is Angela a reference to Ms McEwen?---Yes.

And Ben a reference to Mr Webb?---Yes.

40 So Mr Webb wanted those candidates to start on 17 January.---Yes.

You were asking him to confirm some rates below. Is that so that you could put them into their contract to send back to Angela?---Yes.

And in relation to Mr Kools, you raised an issue about the pay rate.---Mm-hmm.

Why did you do that?---Well Pietro must have indicated a pay rate for the TL architect role and it was very much below what that type of role would get, by the looks of things.

10

So you were encouraging him to negotiate a higher pay rate?---I was just giving feedback on the market, yeah.

The third line from the bottom you say, "I suggest a minimum of \$1,300 to \$1,400 per day plus GST to PMLV (you will take care of Lionel)."/>---Yeah, that's correct.

And what does that mean?---It means Lionel will be engaged with PMLV out of that dollar amount per day.

20

And then the next sentence you say, "Request that it start requested which was 17 January, but Mr Webb still needs to approve a quote." So you suggest to put it on hold. So you were waiting for Mr Webb's approval before you engaged.---That's correct.

THE COMMISSIONER: Can I just ask about something that was mentioned in the previous document that you were shown, which was about supplying comparative CVs to satisfy council procurement requirements. ---Yes.

30

Or procurement rules.---Yeah.

So in the case of a normal placement, not a payroll placement if you like, you would need to supply comparative CVs.---Mm-hmm.

What about in the case of a payroll placement where, pardon me, council had identified, or Webb or someone had identified a person to you.---Yes.

40

Do you need comparative CVs then?---I don't, I don't think so, no. I don't believe so.

Right. But when PMLV was putting up a candidate, you did need comparative CVs.---Or if we were, if we were recruiting for a role ourselves, I believe it's a minimum three CV comparative policy, yeah. And that's just what I heard from council, yeah. And we would always try and present a shortlist at least for any campaign, whether it's for council or any client.

MS HUXLEY: Was it your view, in the course of the 2021 to 2022 that Mr Webb would tend to look more favourably on PMLV candidates?---I've got
10 no evidence that he would look more favourably at them, but the results of what we placed, there were definitely more PMLV candidates again at the end of the engagement, so I can't speak as to whether or not he looked more favourably at them.

Was it your view that they were more likely to be placed than other candidates that you suggested?---It turns out that they were, yeah.

Did you suggest other placements for PMLV candidates? So not just Canterbury Bankstown Council where PMLV - - -?---Well I discussed that
20 with Pietro. We did think about other areas where we could go to, but we, we didn't. We didn't place people anywhere else.

And why was that?---We just weren't successful.

So did you propose candidates for other, PMLV candidates for other places?---No. We, we tried to find potential homes elsewhere, other host clients, but I wasn't successful in finding other host clients.

What kind of host clients were you looking at?---Some commercial clients,
30 other local councils as well.

Did those clients give feedback on why they didn't engage the PMLV worker?---No. It was nothing against a PMLV worker. I just failed to find another home.

But was an issue raised in relation, with any of those other clients, in relation to the experience of a proposed PMLV worker?---No, no.

Did you seek extensions to contracts for these PMLV workers with council
40 direct from Mr Cossu?---I don't recall, directly from Mr Cossu was the

client, it was the hiring manager who would make the final decision on an extension. I could be, I could be mistaken there, but I don't think so.

If I can take you to volume 30.3, page 20. So that blue bubble is a message from you to Mr Cossu.---Mm-hmm.

Do you recognise that message?---Yes.

10 And you say, "Can I extend Mayra for six months in our system or are we finishing her up?"---Yeah.

Was Mayra a PMLV candidate placed with council?---Yes she was, yeah.

And as at May 2022, her contract was coming to an end.---It must have been, yes.

And you were asking Mr Cossu whether to extend that contract.---Yeah.

20 So does that assist in your memory of whether you asked - - -?---It does.

So you did seek - - -?---I did.

Ask Mr Cossu.---Yes, I did.

And then Mr Cossu responded, "Extend."---Mm-hmm.

And you understood that to mean, yes extend her contract with council?
---No, extend her contract with us.

30 But her contract, her involvement with you was her placement with council.---Through PMLV, that's correct, yes.

So Spinifex only got paid for Mayra based on her employment with council.---That's correct, yes.

And then PMLV paid, so it was an extension of Mayra for the council role.
---Yes.

40 Did you ask Mr Webb whether to extend Mayra?---I believe I would have, yes, but I can't recall.

How would you have done that?---I would have, all extensions are done via email. I often had trouble getting a hold of Ben, so for people who were working through PMLV, I would go to Pietro from time to time.

If you hadn't heard from Mr Webb, would you just extend it and leave it to council in terms of their approval of time sheets?---Yes, exactly. So this is really for an internal question in our CRM. When, when a candidate exceeds their end date, it literally stops sending the time sheets out, so they can't be sent out for approval.

10

So there's an automatic cut-off date?---Yes.

So you have to extend it.---Yeah, in our system.

There has to be an input into the system - - -?---Yeah.

- - - before they can then send out the timesheets.---That's correct. We, we often put people's end dates past their contract period just in the event that they are extended but we're not informed, and their time sheets don't stop because again, if the time sheets don't, if they cease, they can't be paid.

20

So Spinifex is putting an end date that's beyond what had been agreed to by a client.---Just for our internal time-sheeting purposes, yes. Not, not for invoicing.

In those circumstances, would someone, would an extension be formally sought?---Yes. Yeah. A candidate may raise it. We as the agency may raise it.

30

Page 33 of volume 30.3. At the top there is Mr Cossu messaging you saying that "Mo El Halabi has only one week."---Yes, I can see it.

And then you respond, "Hey mate, I'll extend on Monday and submit hours based on your invoice."---Mm-hmm.

So in that case, Mr Cossu is seeking an extension from you.---I don't know if it was an extension. It's possible that Mohamad was away or didn't submit his timesheet and I was doing it on his behalf.

40

Sorry, doing what on his behalf?---Submitting a timesheet through the system for approval.

But you've said to Mr Cossu, "I'll extend on Monday and submit hours based on your invoice."---Yes.

So is that not a reference to extending Mr El Halabi's contract?---Oh, sorry, the first, the first part of the sentence, yes, more than likely.

Yeah. I'll take you back to page 30. You messaged Mr Cossu saying, "Your architect Nameer rejected by Ben."---Yeah.

10

Did you have any conversations with Mr Webb about Nameer as an architect candidate?---I, I can't recall. It was either an email or a conversation. That's how I would have found out that he was rejected.

Do you recall if you'd notified Mr Webb that Nameer was a PMLV candidate?---I don't recall.

Mr Cossu says, "I didn't have a chance to talk to him and I will not break my leg in a hurry"---I think that's referring to Ben Webb's availability. He was always very hard to get a hold of. Again, I'm making an assumption based on someone else's text but I think that's what it's about.

20

At page 28 of that volume, at the top of the page you message Mr Cossu saying that Myara and Aline - is that how you pronounce her name, do you know?---Aline.

Aline. Were looking for a pay rise "and asking if we can give them an extra five to \$10 per hour." Who is the reference to "we" there?---If we, as the subcontractor and Spinifex, can organise a pay rise.

30

And were you trying to organise a pay rise with Mr Webb at that time?---I was trying to get a hold of him to propose it, yes.

Do you know if he ultimately agreed to that?---I don't remember actually. I don't recall.

Go down to page 41. In the middle of the page you refer to "Asfia did 119 hours for the past fortnight"---Mm-hmm.

40 So that would equate to about 60 hours per week?---Yep, yes,

Was Asfia a PMLV candidate?---Yes.

And were you telling Mr Cossu to keep an eye on those hours?---Mm-hmm.

Why?---Because that was above, I imagine, it was above the, the, the normal weekly hours worked.

10 So when a PMLV candidate is engaged through Spinifex, was a number of hours listed on the contract with the client?---The client would always tell us the, the normal working week, that's correct, yeah.

And for council do you recall what the normal working week was?---For contractors I think it was 38 or 40, yeah.

20 If a contractor consistently worked for very long hours, would that raise, would that lead to anything in the Spinifex system notifying you that there were unusual hours being worked?---They were, they were on automatic alerts but we keep an eye weekly on the hours that are being done and what's being approved.

Why is that?---Just to make sure that thing, the right hours that are being worked are actually being approved.

30 When you said, "Keep an eye on those workers", were you concerned that this number of hours might lead to this arrangement attracting scrutiny? ---No, not at all. It's more about their wellbeing and that, that's a lot of hours. Once it's approved from our client, regardless of who the client is, we, we are under the understanding that it's gone through some sort of scrutiny already and been approved for payment and invoicing.

If we can go to page 48.---Excuse me.

Mr Cossu there says, "I don't understand what is wrong. I must have missed something." And then he says, "If I had the power to engage what I wanted, I would have employed 100 per week." Do you understand what that reference is to?---I, I guess it's 100 people per week.

40 And if you go to the next page, page 49, you refer to "candidates referred to council and PMLV since May not getting feedback." Do you know why that was the case?---Oh, it's because we were getting a very delayed response to applications sent for, for, for active roles.

And did Mr Webb or anyone at council give you an explanation for that?---
No, no.

If you now go to page 64. This is in August 2022 and Mr Cossu says to
you, "Try to ask Angela. Something is going on with Ben" and you
respond, "No." Do you recall any conversations you had with Mr Webb at
that time?---August 2022. No.

10 So you don't know what that message is referring to?---Not really, no.

Did you have this subcontractor relationship with anyone else?---No.

Have you had any such relationship with anyone since?---No.

Did you obtain any benefits from this arrangement?---No.

Did you benefit in the sense that the bonus point system was dependant on
how many candidates you had placed?---Yes.

20

And so to the extent that you assisted Mr Cossu in utilising this arrangement
with council, that benefitted you in your role with Spinifex?---Yes, it did.

But did you receive any benefits from PMLV or Mr Cossu?---No, certainly
not.

Those are my questions, Commissioner.

THE COMMISSIONER: Yes, Mr Moses, do you have some questions?

30

MR MOSES: Commissioner, I do have some questions, subject to the
Commission granting leave.

THE COMMISSIONER: Yes, of course. Sir, Spinifex, on its website, says
that its been working with local councils since 1998, correct?---Yes, that's
correct.

And you commenced working in the construction area, I think you said,
relatively recently, is that right?---Myself, yes, that's correct.

40

In Western Sydney, correct?---That's correct.

And you said that Mr Webb, who was previously known to you, contacted you out of the blue to discuss with you potentially doing some work for the council?---It wasn't entirely out of the blue. If you will allow me - - -

Oh, please.---We were working with the incumbent Sean Naidu.

Yes.---We had already engaged with him and the first contact I got from Ben was an email regarding, I believe, the last contact I had with Sean
10 Naidu.

And Spinifex is a Local Government Procurement approved contractor?
---We are, yeah.

And was that the situation back in 2020?---Yes.

And did you understand pursuant to the Local Government Procurement approved contractor status that you were to work in the best interests of the council, correct?---Yeah, that's correct, yeah.
20

And your client was the council?---That's correct.

Not the subcontractor?---That's true.

And would you accept this proposition, on reflection, based on some of the questions that were asked of you by Counsel Assisting that you appear to be working more in the best interests of PMLV than of the council?---I can see how - - -

30 On reflection.---On reflection I can see how its perceived that way, yes.

And under the arrangements that counsel assisting asked you questions about, a short while ago which related to 2020 to 2021, the position was, well let me go back 2020 to 2022, the position was that Spinifex charged the council directly through an invoice system in respect of what is was charging for workers, correct?---Correct.

And that was done on a per-hour basis, it would set the rate, correct?
---That's correct, yeah. Some cases it was a day rate but, yeah, usually
40 hourly.

And in 2022, that is from September 2022, that arrangement changed whereby the situation would then become that payments would be received via Commesura, correct?---That's correct.

In respect of these because Comensura was established to coordinate the supplier relationships on behalf of council and contingent labour suppliers such as Spinifex. Correct?---True.

And that changed in September 2022.---Yes.

10

And can I just ask you some questions about a particular individual which my learned friend, counsel assisting asked you questions about, which was Mr Mohamad El Halabi.---Yes.

You told counsel assisting that you saw the contract of Mohamad El Halabi.---Yes.

And, Commissioner, with your leave, I was going to ask whether the witness could be shown Exhibit 48, volume 20.1, page 52.

20

THE COMMISSIONER: Yes.

MR MOSES: And this contract which I just want to take you down through to what appears at page 68, which is the schedule, you will see there that the schedule has Mr Halabi being remunerated \$39 per hour, including the superannuation contribution.---Yes, I can see that.

Yeah. And this is the form of the contract that you saw, that you were referring to earlier?---I believe so, yes, yeah.

30

And can I ask then, if the witness could be taken to page 19 of that volume. That's the council quote which is the client quote and that's the project manager designer for Mohamad El Halabi, you will see at the top of the page, for \$115.18.---Yes.

And then could I ask that the witness be taken to page 51, which is the invoice from PMLV to Spinifex and you will see Mr Mohamad El Halabi was paid \$100.59. Do you see that?---Yes.

40 Does that mean, in terms of the difference between the council quote which Spinifex issued to the council and the invoice that ultimately was received

by PMLV Consulting back to Spinifex, that per hour, Spinifex was obtaining roughly a figure of around \$14-odd per hour as its, if I can call it profit, or take - - -?---That sounds about right, under the LGP margin rule.

- - - in respect of that, mm-hmm.---Yes.

And that would mean that in respect of the differential between what PMLV was obtaining and what it was paying the worker, it was roughly getting around \$60 per hour.---Yes, it appears so, yeah.

10

And you were aware of that?---Yes.

And what did you understand was the work that PMLV was doing in order to obtain that profit level, that is, what was its risk?---Managing these particular people as well as the team leader and providing them with, with other added benefits as an employee of PMLV Consulting.

Well you said to counsel assisting that there were a number of issues relating to insurance, which I think were public liability.---Yes.

20

PI and workers compensation. Who was paying that cost?---Well all of us. Yeah, all of us. Every, everyone within the chain.

Yeah.---Yeah.

All of us, yeah.---All of us. Sorry, the subcontractor and Spinifex.

Mm-hmm.---Yeah.

30 Okay. Well are you able to tell us how that figure was arrived at in terms of the percentage of what was being paid by Spinifex as opposed to PMLV? ---Sorry, I don't particularly understand that.

Well you said all of you were paying that cost.---Yes.

How? Like what was the percentage? How would you work that out?

---Well - - -

40 Because the Commissioner asked you a question as to how that was worked out.---Yes.

With respect, you couldn't answer the question in terms of explaining how that was arrived at. How did you calculate it?---It's calculated via our quote calculators for an ABN contractor for on-costs.

So, okay.---Yeah.

So there's a, you have a system - - -?---Yes.

10 - - - that operates, it comes up with a figure.---Yes, in line with our LGP rates, yes.

Okay. And who was the custodian of that system within Spinifex, who operates it?---A consultant. It also goes through our payroll and finance teams as well.

Is there an algorithm that is used for that?---Yes, it's a, there's, it's a quote calculator, yes.

20 Okay, thank you. Do you accept this proposition, that sitting here today in respect of Mr El Halabi, you couldn't possibly express a view as to whether you were satisfied that the amount of money that PMLV was receiving as part of the hourly rate was justified in terms of any work that it was doing for this. Would you accept that?---I, I don't understand exactly what PMLV was also paying to the employee who was helping, I did hear during our arrangement that there was trainings that were paid for, there were other added benefits, but I can't speak to knowing that that actually happened.

30 Well the only thing you know about is what he was to be paid under the contract.---That's correct, yes.

So I am going to ask you the question again, at the time that you agreed to this arrangement with Spinifex, you did not know what he actually was doing to obtain that massive mark up?---No, I didn't.

Okay.---Yeah.

40 And just one other question based on something that counsel assisting asked you, if I could have leave just to go back to volume three, Commissioner, Exhibit 31, so volume 3.2, Exhibit 31, page 222. You were asked a question by counsel assisting as to what you meant by those words at the end, so there's plenty of room for PMLV, and you will see that's in the context of a

lower rate being paid to Saif Kalhoro. What you were suggesting there was, that individual was happy to take a lower rate per hour for himself.---Yes.

Which meant there would be more profit for PMLV.---There'd be a place for PMLV in that arrangement, yes.

Well there'd be more profit for them, correct.---Well yes.

10 Yeah, and you were, you were more interested there, weren't you, in trying to, in effect, get more value for money or more profit for PMLV than you were worried about council's interests.---No, that was not my intention or motivation.

Is that a serious answer to my question?---Yes it is, sir, yeah.

20 Your motivation was to continue this arrangement with PMLV because ultimately it would assist you in terms of a bonus that you would receive because of placements, correct? You've accepted that proposition.---Yes, yeah.

So I am going to ask you the question again here, you were trying to do your best to ensure that PMLV were to get a larger amount of profit, correct? Do you accept that?---No, I don't accept that.

You don't.---My motivation has always been to get more people into our clients working for their team.

30 But also your motivation must be as well to ensure that they're getting value for money.---Yes, sir, yeah.

Yeah. And you accept this proposition, you're unable to say, because you made no enquiries to ascertain from PMLV how they were coming up with their figures, as to whether in fact council was getting value for money. Do you accept that proposition?---Yes, I accept that, yeah.

By the way, how did you the bonus scheme work within Spinifex?---So our, we times our salaries by 3% and divide them by 12. When you earn over that monthly bonus point, you get a percentage.

40 Okay.---Yeah.

Okay, thank you. Thank you for your patience, Commissioner. I have no further questions of the witness, thank you.

THE COMMISSIONER: Yes. I'd just like to take a short adjournment and before we come back to further questions.

MR PARARAJASINGHAM: I have just some short questions, yes.

THE COMMISSIONER: We'll just take a short adjournment.

10

MR PARARAJASINGHAM: Certainly.

THE COMMISSIONER: So you can step down for a moment if you like, I'll only be five minutes. Thank you.

SHORT ADJOURNMENT

[3.08pm]

20 THE COMMISSIONER: I think there are some further matters that Ms Huxley wishes to raise and perhaps it might be convenient to attend to those at this point?

MR PARARAJASINGHAM: Certainly.

MS HUXLEY: Thank you, Commissioner. Mr Trapman, did you facilitate a meeting between Mr Small, the Managing Director of Spinifex, and Mr Cossu sometime in late-2022?---Yes.

30 What was that meeting about?---Pietro was looking to retire and sell his business, he was looking for a buyer.

And Spinifex was a potential buyer of the business?---Potentially, yeah.

Did you have a conversation with Mr Cossu before that meeting?---Yes. He asked - - -

And what did you speak about?---About whether or not Spinifex would be interested in, in buying it, yeah.

40 Did Mr Cossu offer you a percentage of the sale?---No.

Did Mr Cossu raise a prospect of selling PMLV to Spinifex before late-2022?---I can't remember the timing. As soon as it was mentioned I raised it with Scott.

Had he mentioned the prospect of selling PMLV through Spinifex in 2021 before any of the PMLV contractors were engaged?---No, no. No. I don't believe so from memory.

10 In relation to the bonus, so can you explain the bonus structure again just so I'm clear?---Sure. So, the calculation is we times our salary by three and divide it by 12. So that's the monthly bonus points. And for every dollar earned above that level there's a percentage for temporary contracting business and a different percentage for permanent, because we do permanent recruitment as well and, again, for every dollar above that you get a certain percentage.

When you say you times your salary, is that your salary?---Yes. But for any consultant salary.

20 So you multiply the Spinifex consultant salary by - - -?---X amount, and then you - - -

So what's the X amount?---Three, as I mentioned.

By three, okay.---Yeah.

And then you divide it by 12, so it's a monthly bonus point system.---Bonus point, that's correct.

30 And so say you've got two bonus points, what does that equate to? So is it if you get a bonus point then you qualify for the bonus?---That's right, yes, for commission.

And how is the bonus, or the commission, calculated?---I think it's 15% for - I could have this mixed up. 15% for temporary and 30% for permanent placements.

40 Of the total number of contractors you have on your books?---No. Once you get above that bonus points, based on the revenue that's generated through temporary contract business, or permanent recruitment business, you then get a different percentage of that total amount.

Do you recall what your - is it a yearly bonus or a monthly bonus?

---Monthly.

Monthly?---Yes.

And do you recall as at 2021, at the beginning of this PMLV, what your kind of regular monthly bonuses were?---I think it might have been 500 to \$1,000 a month. I, I would have to look at my records, yeah.

10

And in mid-2022, do you recall what it was?---It was lot higher than that, yeah.

How much higher?---Oh, I think it was anywhere from 1,500 to 3,500 or 4,000.

And that's per month?---That's right, yeah.

20 And that would have included the PMLV contractors engaged through - - - ?---My total desk, yeah, yes.

Those are my additional questions, Commissioner.

THE COMMISSIONER: All right. Well, can I just ask this? In relation to the, say, rough 1,500 to 3,500/4,000 per month that you may have been getting in mid-2022, how much of that would be attributable to the PMLV contingent workers?---Oh, again, I would have to look at the historical because there was permanent placements I was making for other clients as well. So I would only be guessing to answer you right now.

30

All right.---Yeah.

All right then. Sorry, so they're your questions then. All right. Mr Moses, did you have any further questions?

MR MOSES: No, thank you, Commissioner.

THE COMMISSIONER: Yes, all right then. Sorry.

40 MR PARARAJASINGHAM: No, thank you, Commissioner.

THE COMMISSIONER: Finally.

MR PARARAJASINGHAM: Mr Trapman, I just have a few questions. I appear for Mr Webb. It's, and you touched on this in your evidence, I believe in the period 2020 to 2022, as you understood it, there was an increase in capital work projects at the council?---Correct.

And this was in the midst of an infrastructure boom, correct?---Yes.

10 And you understood that Mr Webb was the Manager of Works and Project at council?---Yes.

As you understood it, he was responsible for the delivery of those projects? ---Yes.

Now, in that period, approximately 2020 to 2022, you had a number of conversations with Mr Webb, correct?---Yes.

20 And it's right to say that in those conversations, from time to time he impressed upon you the need to significantly increase the workforce at council?---Yes.

And is it right to say that Mr Webb placed with you a standing list of positions?---Oh, every now and then on email but, again, as we saw today, they had asked for quoting on certain positions but I was never really sure if they were active roles they were looking to recruit or just looking for market benchmarking on salaries.

30 Certainly. As you understood it, there was a need to get people into council?---Oh, certainly, yeah.

And in those conversations that you had with Mr Webb in the relevant period, did he express to you, or do you recall him expressing to you a preference for those people with private sector experience, as distinct from public sector experience?---Certainly. Commercial acumen, private sector experience, he would say, yes.

He had a particular interest in identifying people of that sort?---Yes.

40 Now, just to understand the process here, it's the case that potential candidates came to your attention?---(No Audible Reply)

You're nodding, yes?---Sorry, yes.

Yes.---I mean, I didn't understand the question to be honest. Yes, candidates came to my attention, yes.

Yes. And the next question is, and they were sourced from - there were a number of sources?---That's correct.

10 One of which was your own store of sort of talent pool?---Yes.

Some were referred to you by Mr Cossu?---Correct.

A few were referred to you by Mr Webb?---That's right, yeah.

Any other sources?---Well, if you include our talent pool from advertising for new talent to come in, yes, but no, no other referrals, no.

20 And what occurred is that some of these candidates became contingency workers at council?---Yes.

And some were placed through the PMLV entity?---Yes.

And others were placed directly by Spinifex?---That's correct.

And at no point did Mr Webb refuse to take on any contingency worker placed by Spinifex, correct?---Refused to take on - he, he would reject people at interview if I'm understanding your question.

30 Sorry. So he would reject people who were to be placed, or who were put forward by PMLV or Spinifex?---That's correct, yeah.

Just finally, Commissioner, could - I don't have the exhibit number but it's volume 30.3, page 30. Could that please be placed on the screen?

THE COMMISSIONER: Yes. Just while that;s being located, Mr Trapman, you said that Mr Webb had a preference for people with private sector experience.---Yep.

Would we be talking about private sector experience in the Australian workforce?---Oh, I, I don't, I don't, no, I don't, I don't think specifically within the Australia workforce.

Could have been anywhere in the world?---Yes.

Could have been developed or not-developed countries?---Yes, absolutely. Yeah.

10 MR PARARAJASINGHAM: You've got that document before you?---Yes.

And do you see that, if we're to understand this, the blue message is your text to Mr Cossu, correct?---Yes.

And what you say there is, "Your architect Nameer rejected by Ben." Do you see that?---Mm-hmm, yes.

And are we to understand that this fellow was put forward as a PMLV candidate?---I believe so. I mean, I can't recall, but if I'm discussing with
20 Pietro, yeah, I would say yes.

And if you're referring to "your", that would suggest that - - -?---Yes.

- - - you're referring to Mr Cossu's vehicle?---Correct.

And this person had been rejected by Mr Webb?---Mm-hmm.

Do you recall the reason for that?---No. No. I would have go back and look through emails and records of why. I, I imagine that it was, it was either
30 submitted and not successful in getting an interview, or succeeded in the interview but failed during the interview process but I can't recall which, which one, or why.

And this was not uncommon that people were put forward - - -?---No, Ben would reject people often.

PMLV or Spinifex would be rejected?---Either/or, yeah.

Thank you. Nothing further.---Yeah.
40

THE COMMISSIONER: Yes, Mr Sutton.

MR SUTTON: Thank you. Sir, my name is Sutton. I appear for Mr Cossu. Which one is the Commissioner to understand that the underwriting, or the overwriting, intention of the relationship was to provide qualified workers to council?---Yes.

And that was taking place, as my friend just put to you, in a construction boom?---Yes.

10 And it was a difficult market to find qualified talent?---For most of the roles, yes, absolutely, yeah.

Thank you. Thank you, Commissioner.

MR MOSES: Commissioner, there was one question that I wanted to raise that my learned friend asked who is acting for Mr Webb - - -

THE COMMISSIONER: Yes.

20 MR MOSES: - - - concerning Mr Webb and his interactions with the witness.

THE COMMISSIONER: Yes.

MR MOSES: If I could perhaps put the question, Commissioner, and see whether or not I can be permitted to ask the witness this question?

THE COMMISSIONER: Yes, certainly.

30 MR MOSES: Sir, you accepted a proposition from my learned friend acting for Mr Webb that there were three sources of potential candidates that you would have for roles. One was from your own talent store, if I could refer to it as that?---Yes.

One was from PMLV, correct?---Yes.

And one was from Mr Webb himself, correct?---That's correct, yes.

40 Was I right to understand evidence you gave earlier to counsel assisting that in relation to Mr Webb those referrals from Mr Webb stopped coming through when PMLV came into the picture? Was that the evidence you

gave to the Commission?---Yes. And I believe that's, that's, that's what happened, yes.

Yeah.---Yes.

And did that strike you as odd?---No. Hiring managers are often referring people to us. I, I didn't question as to why they happened to stop. So it didn't strike me as odd.

10 Did you consider that it was too much of a coincidence to be a coincidence, citing Yogi Berra from the Yankees? Was it a coincidence or - -?---Oh, I - -

No?---I don't know.

Just happened?---I don't know how to answer. It just happened as far as my knowledge is concerned.

20 So after PMLV came into the picture you stopped getting referrals from Mr Webb?---Yes.

Thank you. No further questions.

THE COMMISSIONER: Did any other legal representatives want to ask any questions before I come back to Ms Huxley? Yes, Ms Huxley.

MS HUXLEY: I've got no further questions, Commissioner.

30 THE COMMISSIONER: All right then. Well, I think that's your evidence, thanks, Mr Trapman. You can step down and I will close this and we'll adjourn until tomorrow.---Thank you, Commissioner.

THE WITNESS EXCUSED

[3.34pm]

And I will adjourn until tomorrow at 10.00.

40 **AT 3.34PM THE MATTER WAS ADJOURNED ACCORDINGLY**

[3.34pm]