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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 5 JUNE, 2015

AT 10.07AM

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

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Mr Katekar.

MR KATEKAR: Thank you, Commissioner. We're continuing with John Hacking today because his solicitor was able to get here on time.

ASSISTANT COMMISSIONER: Thank you.

10 MR KATEKAR: After which we will examine Darren Hacking after the examination is completed by others of course.

ASSISTANT COMMISSIONER: Ah hmm.

**<ARTHUR JOHN HACKING, on former oath**

**[10.08am]**

20 MR KATEKAR: So just finishing off from yesterday, I've got a few points to do. I'll try to be as rapid as possible. The first one that I would like to do is to go back to a document regrettably that we did yesterday. Volume 10, page 25 please. This is the memo of 30 June, 2014 which was prepared by you and signed by you. Signed by Assistant Commissioner Stephen Yorke and then signed by Commissioner Shane Fitzsimmons?---Yeah.

You remember that one. This memo refers to 100,00 snack packs but doesn't refer to the cost of those 100,00 cost packs does it?---No.

30 But what it does at the bottom is the total value of the order is \$1.9 million? ---Yeah.

And the purpose of this memo was to obtain approval for these purchases for the upcoming fire season. You agree?---That's correct.

With a view – it was envisaged that they would be used during section 44 events. Correct?---That's correct.

And the – under a section 44 event Mr Yorke had a general – had a delegation of 150,000. You agree?---I agree, yes. Oh, yes, I think so.

40 He was group manager, response and co-ordination I think?---Yes, yeah.

But the Commissioner had an unlimited delegation during a section 44 event. You agree?---Yeah.

But outside a section 44 event the delegations were different weren't they, that is, the Commissioner had a limit of \$1 million?---Oh, I didn't - - -

You didn't know?---No, I didn't know that, no.

All right. Can I just check this. All right. Did you know – and that Steve Yorke had a general delegation of \$50,000 outside a section 44 event?---I knew that, yes.

You knew that?---Yes.

But you were relying on the delegated power of the Commissioner to approve this?---Yes.

10

Did you speak to the Commissioner about this?---No.

No. The next place I wanted to go was, under the policy for - and I'll – and I'll ask that it be gone to. Hold on. If I can find it. Where is it? It's volume 1, page 65. And what it is is, it's a procurement policy of the Rural Fire Service. And I'm just going to read a couple of things out. Because I'm talking about this in the context of your 30 June memo and also in the context of other occasions when there was advanced purchases of snack packs and replenishment of snack packs. But 2.23 says, during declared emergencies there will be occasion where it's necessary for the RFS officers to purchase urgent goods and services. Do you agree with that?---Yes.

20

And then 2.24, in such circumstances delegations may apply. To authorise the purchase of stores or the provision of services to a value sufficient to meet that particular emergency. See that?---Yes.

And the price paid must be reasonable and proper and the quantity must not be in excess of that necessary to meet the immediate needs of the emergency. See that?---Yes.

30

You were aware of these requirements from 2012 onwards?---No, but, yes.

No, but, yes. What does that mean?---Well, I knew of the policy but not the like the exact wording, no.

Wording?---Yeah.

So you knew that the section 44 procedure, if I can put it that way was intended to be used for an emergency?---Yeah.

40

During an emergency?---Yes.

Do you agree with that?---Yes.

Only to permit the purchase of goods for that emergency?---But that's how it's always been done in the Rural Fire Service.

Okay. When you say, that's how it's always been done, you're referring to what you actually did - - -?---That's correct.

- - - as opposed to carrying out the policy in accordance with what it says?--  
-That's correct.

10 Next I'd like to take you to a document, a Logistics Manual. And the first one I've got I think is – hold on – for 2011/2012 and it starts at page 222 of volume 1. The Logistics Head Office User Guide 2011/2012. Did you write this document?---I was working on it, yes.

Okay. So you started in doing logistics work for the Rural Fire Service when, in about 2004 or after that?---Probably about 2005/2007, yeah.

Was there one of these documents in existence then?---No.

20 All right. So after you started working for, in the Rural Fire Service in logistics, after that one of these documents was prepared?---We were preparing it so we can hand it out to people when they come on board, yes.

And you were involved in the authorship of the document?---Yes.

With Mr Springett?---We've all, all had input into it, yes.

And when you say we've all had input that all encompasses Mr Springett? ---Mr Springett, yes.

Mrs Buckett?---Yes.

30 Mr Lane?---No.

Who else?---At that time it would have been those three.

Those three?---Or the three, yeah.

40 And you were aware, weren't you, if you can go to page 230, if that can be blown up, it says, "Ethics and probity are a consideration throughout the entire process of procurement and all staff are required to adhere to the procurement policy and other relevant policies"?---Yes.

And you're aware that you were bound by that when conducting purchases for Logistics?---Yes.

Yeah. And you were required to consider best value for money?---Yes.

When purchasing snack packs through Mr Homsey you did not?---No.

That is you agree with me?---Yes.

And then the last one, apart from some other things that we could extend into which I won't bother, the last dot point, monitoring of order splitting?  
---Yes.

There was order splitting with Mr Homsey wasn't there?---With the purchase orders?

Yeah?---No.

10

All right. Well, I took you to some yesterday on 14 March, 2012?---Yes.

That was order splitting wasn't it?---I do understand what you're saying with, in terms of the order splitting but not in that contents, context, it was being set out for the different jobs. If you look at the aviation retardant we done exactly the same thing so if four retardants went to a job up Grafton as a Logistics request come in we raised the, the order against it so we could track it.

20

Well, you're saying that for those ones in March 2012 you were raising the purchase orders against each of the Logistics requests?---That's correct.

Even though as far as the Commission is concerned we can't find any Logistics requests for those purchase orders?---Well, there must have been but - - -

So your, your evidence to the Commission is you raised a purchase order only in response to a Logistics request?---Ah, not necessarily all the time, there could have been emails, email requests but normally, yes.

30

A request of some kind?---Yes.

And that you didn't split it up?---No.

For the purposes of making the amounts per order smaller?---No.

And where in the policy its referring to order splitting, that's the evil which is sought to be addressed, you agree?---Yes.

40

And the reason why its sought to be addressed is because when cheques are taken of orders or invoices, if it's a smaller amount it's less likely to be detected, do you agree?---Ah, yes, I suppose so, yeah.

And that's why order splitting is frowned upon in this policy, you agree?  
---Yes.

In this policy, this the first one that we have, we invite the operator to go to it but it's not necessary for me to take you to it other than to say this, I'll

remind you that in the beginning of 2011 was your first order of snack packs from Mr Homsey - - -?---Ah hmm.

- - - and you'll remember yesterday there was a purchase order for 2,000 snack packs at an estimated cost of 60,000?---Yes.

You remember that. And there was one invoice for about 27,000-odd and the other one for 28,000-odd against the same purchase order?---Yes.

10 And I suggested to you, but you rejected, that that was a double payment against the same supply?---Yes.

You remember that, and also at around the same time you had received – no, I'll withdraw that. No. Around the same time, in about March 2011, you had started selling phones on eBay, you agree with that?---Yes.

But in the 2011/2012 handbook, Mr Homsey is listed as a supplier of ration packs with two day lead time. Corrective Services Industries is listed with a five day lead time. Had you put that in there into - - -?---Yes.

20

Yes. Had you put that in there for the purposes of encouraging other people in logistics to direct their ration pack order to Mr Homsey instead of Corrective Services?---No.

In the 2012 – sorry, I'll just mention this. According to records – hold on. All right. I'll just say this. In 2011/2012 the records the Commission's been able to ascertain indicate that in 2011/2012, 695,940 worth of purchase orders and invoices were issued to and raised by Mr Homsey through D'Vine Tastes but only 37,400 were raised in respect of Corrective Services. So for that financial year, you agree, there was very few obtained from Corrective Services?---That's correct, yeah.

30

But in the following year's handbook that is 12/13, it's changed to indicate that the lead time for Corrective Services is five to 10 days. They're good if you have time on your hands. Did you insert that?---Oh, I can't recall.

ASSISTANT COMMISSIONER: You're really damning them with faint praise there, aren't you?---Sorry, Commissioner?

40 It would not encourage anyone to use them. To say they're good if you have time on your hands?---Yes.

MR KATEKAR: Do you agree with that?---Yeah.

And that, and that in relation to D'Vine Tastes it's inserted into the handbook, the lead time for these is two to three days, there should be a stock of these located at the Glendenning warehouse facility?---Yes.

Did you write that into the handbook?---I must've done.

And was that for the purposes of encouraging others to place orders towards D'Vine Tastes instead of CSI?---No.

Now in 12/13 I think you've given evidence that it was in the 12/13 fire season you were obtaining substantial payments, substantial payments through the skimming scam - - -?---Yes.

10 - - - from Mr Homsey?---Ah hmm.

So I'll ask you again, did you put that into the 12/13 handbook in order to encourage others to place orders through Mr Homsey?---No.

Is that a true statement?---It is.

Well why did you put it into there? Why did you put that in there when – for the last twelve months there had been barely any orders from CSI yet you've changed it from five to five to 10 days, they've got, they're good if  
20 you have time on your hands?---That's if I changed it.

All right. So you're saying you might not have?---Yeah. I wasn't the only one making amendments to the document.

Right. But the gene pool of people who might've made amendments are you, Mr Springett and Mrs Buckett. Do you agree?---Yes.

Do you know if Mrs Buckett was receiving cash from Mr Homsey?---No.

30 She wasn't receiving or you don't know?---I don't believe so. Yeah. Don't know.

You don't believe so. Do you understand if Mr Springett was receiving cash from Mr Homsey?---No.

You don't think he was?---No.

And then in 2013, in the handbook in 2013 in the version there, CSI's not mentioned. Did you take CSI out of the 2013 handbook?---Is that the 2013  
40 now?

No. That's 2011/2012. I just haven't taken you through it - - -?---Okay.

- - - to save time. I want you to accept this from me that it was not mentioned in there?---Okay.

Did you take it out?---I must've done or it must've come out, yes.

Well, it's taken out. I'll suggest these two things to you. One, you took it out?---Yeah.

And you did it so that all ration pack orders will be placed to Mr Homsey?--  
-Yes.

Yes. Because that's where you wanted the ration pack orders to go. You agree?---Yes.

10 Because you were making money from those orders?---Yes.

Now, you told the Commission yesterday I think, and earlier, that payments in 2012 were, I can't remember what the number was but a fairly high number?---Yeah.

Over \$200,000 but then it went down to 45 in 2013. Remember that?---Yes.

20 And I think you told the Commission in your interview that that was because you got overpaid in 2012 and there was a bit of a catch up in 2013?  
---That's correct.

And that's not true is it?---It is true.

What happened in 2013 was that there was an ICAC investigation into the SES. You agree?---Yes.

Yeah. And you were under the pump from the Commissioner not to get any trouble from ICAC. You agree?---No.

30 All right?---No.

Bear with me. Could the operator please bring up volume 13, page 340 please. Could the operator go down to the bottom screen. It's an email from you to Bronwyn Hatcliff?---Yeah.

Who is she?---She's the logistics or admin officer at Greater Taree.

40 Yeah. And you'll see there there's advising in relation to a logistics request 14, 13, 15 and 16 have been changed at the request of Mr Yorke. See that in the memo, in the email?---Yeah.

And then the reason for the change refers to reams of paper change to 50 and plotter paper change to five and then you said, "Due to ongoing investigations conducted by ICAC at the SES surrounding their purchasing habits during the declared emergencies, the Commissioner has made it quite clear that the RFS must ensure that the purchases made during our declared emergencies are justifiable." And what you've said there was the truth wasn't it?---That's correct.



Yeah. And then Bronwyn Hatcliff has responded, “Cool, no worries, John”. And then you’ve responded to Bronwyn Hatcliff, “Sorry, we’re under the pump and the Commissioner doesn’t want any issues from ICAC”, or “doesn’t any issues”. I think want is missing from that sentence. And then you have said, “We’ve been told we could have an audit carried out just protecting our bums.” See that?---Yeah.

10 And that’s why you reduced the amount of money you received from Mr Homsey in 2013 wasn’t it?---No.

It’s correct isn’t it that after a section 44 event there was a number of invoices issued to the Rural Fire Service, like as a, as a matter of practice there’d be a section 44 event, there’d be a lot of purchase orders and a lot of supplies and then a lot of invoices. Correct?---That’s correct, yeah.

And there’d be this – there’d be a large number of invoices all of which needed to be approved at once. Do you agree with that?---Yes.

20 Yes. And that put pressure on the RFS resources. Do you agree with that? --Yes.

And so in the accounts payable section they needed to hire contractors, you agree with this, to process the large number of invoices for payment. You agree with that?---Yes.

30 Yeah. And if there was a large number of small invoices – sorry, my proposition to you is that’s why there was splitting of invoices by Mr Homsey so that the amount of each invoice was low and less likely to be detected by the people paying them. Do you agree?---No.

In a section 44 environment – just put it this way. You were the person who decided to move away from CSI, Corrective Services Industries to Mr Homsey weren’t you?---Not entirely. It was – I’ve always had discussions with Paul.

All right. So between you and Paul?---Yes.

40 But while you were sitting at the Logistics desk if a request comes in for ration packs you get the ability to decide who gets the job?---That’s correct.

And Mr Homsey knew that, you agree?---Yes.

So it was you had the power as to whether or not to continue to issue purchase orders to Mr Homsey?---Well, the Logistics officer did, yes.

Yeah. But while you were a Logistics officer - - -?---Yes.

- - - you had the power. And to your understanding that was why Mr Homsey was continuing to make payments to you, do you agree?---I agree, yes.

I'm going to ask you some questions about CaterQuip, do you remember there was a supply of bain-maries to the Rural Fire Service for the purposes of awards at the - - -?---State champs.

Yes, you remember that?---Yes.

10

And CaterQuip supplied them, sorry, what happened was they came from CaterQuip and were supplied, do you agree?---Yes.

And CaterQuip charged Mr Homsey \$4,300, you agree with that?---Yeah.

And Mr Homsey charged I think five thousand six hundred and something dollars plus GST?---Yes, yeah.

Why did that happen?---Because we were dealing with Scott, I, I just ordered them through Scott.

20

You ordered them through Scott?---Well, through with Paul Fowler.

Paul Fowler, Paul Fowler was dealing with CaterQuip directly?---Oh.

Why did they come through Scott?---I, I, I can't answer that.

Why didn't they come from CaterQuip directly?---That's a good question, I don't know.

30

You could have got them cheaper from CaterQuip couldn't you?---Probably, yes.

Why didn't you?---I can't answer that.

All right. Next, in October 2014 you had a conversation with your brother Darren and you told him you'd send a phone to his son Logan?---Yes.

You did that?---Yes, yes.

40

Yeah. Then in November 2014 you made a cash payment to Mr Homsey, sorry, Mr Homsey made a cash payment to you of \$20,000, do you agree? ---Yes.

And on the same day you sent him an email for your Victorian contacts? ---Yes.

Why did you do that?---He asked for contacts in the other states.

Mmm, to help him, you sent it to help him - - -?---To help him, yes.

- - - to grow his business?---Yes.

And then in December 2014 you knew that the balance on the Telstra SARC, the SARC account was \$215,000?---Yes.

10 And you placed an order for \$107,000 under that account?---Yes.

And you used the, some of the units obtained under that account to distribute to some of your friends and family?---Yes.

Then in December 2014 you had asked Mr Homsey to include into the ration packs an Oshiklenz hand wipe, correct?---After a meeting, yes.

After a meeting, yes. But you didn't want the price that you were paying Mr Homsey for the ration packs to increase?---That's correct.

20 You agree. And so you did a deal with him along these lines, that he would order and pay for the Oshiklenz hand wipes, correct?---No.

And that, I'm going to put the second one - - -?---Yeah.

- - - to you and then I'm - well, you may have heard it, did you hear the telephone call between Paul Bulmer and, and Mr Homsey - - -?---Yes.

30 - - - where Mr Homsey said that he'd done a deal with you?---I, I did hear that but it wasn't a deal as a deal. Ah, the original order for these wipes were placed against Logistics and we included them into the, the snack pack and then we were going to replace the, like the little KFC wipes eventually with these and Scott went and ordered some more when I didn't approve it.

Why was the RFS paying for the contents of the snack packs, being, for that part of the content of the snack packs being supplied to you - - -?---Because, because we were trialling it.

40 Well, if you were getting a snack pack, sorry, a ration pack from Mr Homsey and you were paying for it weren't you paying for part of it again by paying for its contents?---Um, yeah, I, look, yeah, I, yes, I agree with that, yeah.

There's just a couple of other things. You sent a phone to Stuart Isaacson?--Yes.

Yep. And you gave a phone to Brandon Edrupt with some cash in return for a lawn mower?---(No Audible Reply).

A lawn mower? Brandon Edrupt? I think it's Nathan Edrupt's son or something?---No. Um, Brayden?

Or was – oh sorry, is it Brayden?---It's Brayden. Ah, no.

Or was it that for, there was a lawn mower deal wasn't there?---There was.

Who was that with?---That was Rowan.

10 Rowan. Oh, sorry. But there was oh, was the Brayden, was that the plumbing work?---No.

Where you said you, he did some plumbing work for you in return for the phone?---No.

All right. Did you give him a phone?---Loaned him a phone, yes.

Brayden Edrupt?---Yes.

20 You gave him a phone. All right. Then when you were apprehended on 14 February, 2015 you had money in the car?---Yes.

And at your home?---Yes.

You said it was for repayment of a loan?---Well that's what I told my wife, yep.

Yeah. And that's what you told the Commission officers?---That's correct, yep.

30 And it wasn't true?---No, that's correct. We did, I did fix it up in the um, interview under caution.

In the interview?---Yeah.

You addressed that in the interview. Excuse me. No further questions, Commissioner.

40 ASSISTANT COMMISSIONER: Thank you. Does anyone apply to cross-examine this witness?

MR BREWER: I do.

ASSISTANT COMMISSIONER: Yes?

MR BREWER: Yes, thank you.

ASSISTANT COMMISSIONER: Yes, Mr Brewer?

MR BREWER: Just on that topic, Mr Hacking, of not being forthright with the Commissioner investigators when you were first approached I think towards the end of a very lengthy record of interview you said this, page 181 at line 15, you were talking about contact with my client, Mr Homsey. Is that right?---(No Audible Reply).

And there was a discussion about whether you were both on Facebook. Do you recall that part of your interview?---Oh, no I don't, sorry.

10 All right. And you were talking about someone called Dave and you said, "Dave phoned me and I said, 'Dave, I can't talk to him and I don't want to really talk with a prick'"?---Yep.

And you were referring to my client weren't you?---Yes. That's correct.

All right. And then you went on and you made some sort of apology at line 27 on the same page. You said this, "I've really given some thought to what's happened and I'm really disgusted in myself." Do you remember saying that?---Yes.

20

"Disgraced. If I could go back to that day I had the car accident when I was trapped I wished I'd died in that car accident"?---That's correct.

And, "I wish I hadn't gone down that path. I'm pissed that off that I got manipulated." Do you remember saying that?---Yes.

"I'm a little bit hurt. I've served 19 years for the Crown and it's just been recent where I've fallen off the perch a bit," is that right?---That's correct, yes.

30

You'd been well and truly stuck on that perch for a long time weren't you?--  
-No.

Yeah. You were like Radar out of M\*A\*S\*H, you were organising everything weren't you, bottles of scotch - - -

MR WHITFIELD: Commissioner?

40

ASSISTANT COMMISSIONER: I'm sorry, do you object to the - - -

MR WHITFIELD: Radar out of - - -

ASSISTANT COMMISSIONER: - - - Radar reference?

MR WHITFIELD: No.

ASSISTANT COMMISSIONER: Hero was a hero if I - - -

MR BREWER: A hero who could organise anything.

ASSISTANT COMMISSIONER: Yes.

MR BREWER: You know who we're talking about don't you?---Yes.

Yeah. You were a bit of a Radar in the RFS weren't you?---Um, everybody come to me to get stuff, yes.

10 Yeah, of course they did. You were pulling all the levers weren't you?---  
Ah, no. Not necessarily pulling all the levers but - - -

You spent the greater part of yesterday afternoon explaining to this inquiry about your knowledge of every hole in RFS procedures that you understood, is that right?---Correct.

And you had the temerity I suggest to you sir, to suggest that my client came up with this skimming scam?---He did.

20 That's not just nonsense and you know it?---That's not correct.

How could my client possibly have known that his deliveries to the Glendenning warehouse would not be checked off?---I don't know but - - -

He couldn't have known it, could he?---No.

No. And you just say that out of the blue he came up with this idea of under delivering items, these snack pack items and giving you half?---He did.

30 Giving you half of what was undelivered, the value of half of what was undelivered. That's just utter nonsense and you know it?---No, that not - - -

Don't you?---That's not correct.

My client could not possibly have known about those internal procedures unless you told him. Is that right?---I didn't tell him about the procedures, no.

40 Of course you didn't. Of course you didn't. You knew what the deficiencies were and you took advantage of it. Is that right?---No.

And when you were confronted about it with \$20,000 cash in the back of your car you dumped on my client, you told him that it was that was loaning him money?---That's, that's correct.

And it was utterly false, wasn't it?---That I was loaning him money?

Yes?---That's correct.

And I suggest that at no stage was he sharing in half of what was undelivered, it was all going to you?---Not correct.

10 Just pardon me a moment. You told Mr Grainger, the interviewer in this record of interview, he said, not surprisingly “I suppose in some ways struggling to understand why he would continue to pay you if you had no involvement on the face nor in these items”. And your answer is recorded as this “That’s just” “that’s just when he approached me back in the October of 2012, that’s the deal we come up with”?---That’s correct.

I suggest the deal that you came up with was look, Scott, I can see you’re, you’re probably making a fair bit of money out of the orders that I’m sending through to you. The bank account’s pretty healthy and it’s time for me to get a share of it?---Not correct.

20 And it was you who came up with the plan of under delivery?---Not correct. He actually approached me and told me – there was a meeting held, he approached me and there was a discussion around his company was having, was struggling and come up with the idea.

I suggest he never discussed anything about his financial dealings within in company?---He did.

I suggest to you he was pains not to let any of his personal business become your knowledge. What do you say about that?---Not correct.

30 And you told Mr Grainger, this is page 85 at line 27, that – this was about the large amount of money, the \$143,000 that went into your account?--- Yes.

You said this “I just, I had a go at him.” I said “Mate,” I said “You can’t go and put \$143,000 in somebody’s account and especially when it’s in cash. It’s a cash deposit”?---That’s correct.

And all that had happened was that my client had calculated based on the invoices that were then due for payment, that amount of 143,000 and paid up in accordance with what you’d previously directed him?---Not correct.

40 And your, your suggestion that he had come up with this idea of you providing him with invoices from AJ Broking, that’s just nonsense, isn’t it? That’s just another lie that you’ve perpetrated on this inquiry?---Not correct.

That was your idea, wasn’t it?---No, it wasn’t.

How is it that your tax invoice pro forma on AJ Broking is very similar to your brother’s one that came from Coffs Harbour Catering?---I don’t know. It must - - -

Just a coincidence is it?---Well, I don't know. I don't know.

I see. And the AJ Broking invoices they all had your bank account details on it didn't they?---I don't know but I - - -

You don't know?---I provided them after the cash payments were done and backdated them.

10 I suggest that there was no arrangement with my client. He never requested you to send him invoices from AJ Broking?---He did.

And he sent you an email to the effect of mate, we've got to discuss this. He was laughing out loud about the items that you've put in the – put on the invoices?---That's correct.

Pardon me. And you told, you told the investigators that my client had been pulled off a fire ground on occasions because his service wasn't up to date. Remember saying that?---I'd have to – no, I don't.

20

You'd have to be reminded of that would you?---Yeah.

I see. Yes, they're my questions. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Brewer. Yes, Mr Dunne.

MR DUNNE: Just one matter, Commissioner. Mr Hacking, my name is Dunne and I represent Mr Springett?---Yes.

30 Now, you recall yesterday right at the commencement of your examination Counsel Assisting asked you, you were a contracts officer with the New South Wales Rural Fire Service?---Correct.

And of course you were at the time that you ceased employment?---Yes.

But it's the case isn't it that from late 2009 until on or about 9 December, 2011 you were actually the manager for procurement and contracts in an acting role?---That's correct.

40 And during that period from 2009 to 11 – sorry, 9 December, 2011 Mr Springett was not part of logistics?---Paul did work in logistics of an afternoon or on a weekend, yes.

During that period?---During that period.

The whole period?---Well, he, he, he did come down and work on weekends, yes.



That might have been a weekend or two but it wasn't a regular occurrence?  
---No That's correct.

I see. Because he was up in finance?---That's correct.

And in a role in finance of a higher level dealing with budgets and things like that?---That's correct.

10 I see. And so when you were asked questions today about the logistics user guide for 2011/2012 and you understood that 2011/2012 related to the fire season?---Yes.

Mr Springett was in finance and had no role to play in the preparation of that document?---He reviewed it, yes.

He had no role in the preparation of the document?---There was changes but not entirely but he certainly reviewed it and there was, yeah, an input.

20 I see. Yes, thank you.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Moses.

MR MOSES: Yes, thank you, Commissioner. I'm not going to refer to you as Radar. As the Commissioner said, you're not a good guy, you're not a hero. Mr Hacking, you of course had extensive experience in procurement before joining the Rural Fire Service. Correct?---Yes.

30 Yes. You were a member of the Royal Australian Air Force. Correct?  
---Yes.

You were in the rank of corporal?---Yes.

And in that role you undertook work in procurement?---Yes.

Yes. And it was with that expertise in the background that you represented yourself as being somebody who was suitable for employment with the Rural Fire Service. Correct?---Would have done, yes.

40 In the interview that you had with ICAC investigators, Mr Grainger, you indicated that you had received training in code of conduct matters, correct?---Correct.

And indeed you signed up to the Rural Fire Service Code of Conduct when you commenced employment, correct?---I assume so, yes.

What, you - - -?---Yes.

- - - don't recall that or - - -?---I don't recall it but, yeah - - -

Okay. Well if I could show you a document. This is in I think volume 1 at page 1 of the ICAC brief I think, Commissioner.

ASSISTANT COMMISSIONER: Yes.

MR MOSES: I'm told it's a different one. Thank you. So we will tender it. Thank you, it's a different one. 1 July, 2013.

MR KATEKAR: I'm content for this to be tendered.

10

MR MOSES: Thank you.

MR KATEKAR: I'm happy to tender.

ASSISTANT COMMISSIONER: Is it a code of conduct?

MR MOSES: It is.

MR KATEKAR: Yes. Signed by Mr Hacking.

20

ASSISTANT COMMISSIONER: Well that will be Exhibit 59.

**#EXHIBIT 59 - NSW RFS CODE OF CONDUCT SIGNED BY JOHN HACKING 1 JULY 2013**

MR MOSES: Thank you, Commissioner. Mr Hacking, that's your signature on the front page?---That's correct.

30

Signed on 1 July, 2013?---That's correct.

And if you go to page 4, or page 3, item 4, "Conflicts of Interest" - - -?---  
Yep.

You understood there what the obligations there when you read the document?---Yes.

And if you go to section 5, "Gifts"?---Yes.

40

And you'll see there in 5.1, "Members must avoid giving any indication that gifts et cetera, will be accepted (not transcribable) decisions."?---Yes.

"And committee members may accept only token gifts and modest hospitality." Correct?---Yes.

5.3, "It is unethical for members to accept such offers from suppliers on behalf of spouses, relatives or friends."?---Yep.

And of course you understood all this when you signed it?---Yes.

Yep. And this is at the very time that you were stealing from the Rural Fire Service by taking money from Mr Homsey, correct?---Correct.

Thank you. Now, also you undertook conduct and ethics training on 25 September, 2015?---Yes.

10 Correct?---(No Audible Reply).

And if I could show you this document, 2013. If you got to page 6 - - -

MR KATEKAR: I'll just indicate this – I haven't seen this before. I've seen an equivalent one for Mr Springett but I'm happy for this to be tendered if my friend would wish to, Commissioner.

ASSISTANT COMMISSIONER: What is it?

20 MR KATEKAR: It's a workbook on a conduct and ethics workshop of 25 September, 2013 and the attendee is Mr Hacking.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 60.

**#EXHIBIT 60 - NSW RFS LETTER AND ACCOMPANYING MATERIALS FROM CONDUCT & ETHICS WORKSHOP CONFIRMING THE ATTENDANCE AND COMPLETION OF JOHN HACKING DATED 25 SEPTEMBER 2013**

30

ASSISTANT COMMISSIONER: Could it be shown to the witness, please?---Yep.

MR MOSES: So you understood the question that you undertook conduct - - -?---Yes.

- - -and ethics training on the 25<sup>th</sup> of September? And if you go to page 6, "Why do we have a code of conduct?" Do you see that?---Yep.

40

That's your handwriting?---Yes it is.

It's the central guide and reference for all Rural Fire Services members in the day to day decision making and behaviour and is the standard by which you will be assessed should your behaviour or conduct come into question?---That's correct.

And again at page 6, "What are the values of the Rural Fire Service"?---Yes.

“Important that decisions we make and actions we take for the Rural Fire Service reflect the values of the Rural Fire Service. Our values define how we evaluate our decisions and actions in how we conduct our business.”  
Yes?---Yes. Yep.

And if you go to page 15, “What questions might you ask yourself when making ethical decisions?” Do you see that?---Yes.

10 Can you just read those out for me, please?---“Is it lawful um, constraint (as said) with Government policies, what will the outcomes be, do these outcomes raise a conflict, can these decisions or conducts be justified, can it be justified and withdrawn for public scrutiny.

Can be justified and withstand public scrutiny?---Oh, yes.

And if you go to pages 20 to 21 these are extracts from the Independent Commission Against Corruption Act - - -?---Yes.

20 - - - which include, if you go to page 21, section 8 and section 9, correct?---  
Ah hmm.

And then – so you read that didn’t you?---Oh, I wouldn’t say I’ve read right through it but yes I’m, I’m aware of it.

Well go to page 22. Read question 4. “What are five questions you might ask yourself to determine if something is unlawful, corrupt?” Do you want to read those out for us?---Yeah. “If there’s a conflict of interest, if there’s a breach of the code, if it’s dishonesty, if there’s a breach of public trust, if  
30 it’s criminal, or if it’s intent.”

And go to page 23. “In your own words what do you think a conflict of interest means”?---“A personal interest could, could conflict or be reasonably seen to be a conflict with, with the impartial performance of an officer’s duties.”

And go to page 40. Do you have that there?---Yep.

40 Page 40? And if you look at the last question - - -?---Yep.

- - - this is in relation to the question relating to examples of an appropriate use of Rural Fire Service resources. Just read section 9 to us, please?---  
“PSU staff asking for procurement if it’s okay to hire a vehicle for personal use.”

“No, the vehicle’s provided to the staff member for work. If used could be a perceived conflict of interest,” correct?---Yep.

This is all your handwriting?---That's correct.

Yep. Now, you knew of course at the time of your acts of criminality and dishonesty with Mr Homsey that what you were doing was wrong, correct?--Correct.

You knew it was corrupt?---Correct.

10 And you knew that it breached the code of conduct that you had undertaken to comply with with Rural Fire Service?---Correct.

And indeed there was a gifts and benefits register wasn't there, that was maintained?---Not really but ah, there was a gifts and benefits register - - -

I'm sorry?---It wasn't really maintained at all, no.

20 Okay. Well can I show you a document which is a copy of the gifts and benefits register for the period 2008 to 2011. This may be already in the ICAC brief I think?---Yes.

But it might be more familiar to - - -

MR KATEKAR: All right. Commissioner, can we just defer tendering this because we've got - - -

MR MOSES: Of course.

MR KATEKAR: - - - something in our brief - - -

30 MR MOSES: Yeah.

MR KATEKAR: - - - and we just want to check if it's already there and if so we'll give my friend a reference.

MR MOSES: So it doesn't double.

ASSISTANT COMMISSIONER: Yes, but he witness can have a look at it and - - -

40 MR KATEKAR: Yes, of course.

MR MOSES: Thank you. Now, in this document you'll see in October, 2008 it records you itemising a number of gifts that you've received, correct?---Yep.

Such as a mouse pad, caps, pens, T-shirt, and cups. Correct?---Yes. Yes.

Yes. And you knew that the purpose of the register was to ensure that there was a record kept of items that you were receiving from entities that did business with the Rural Fire Service, correct?---That's correct.

Yep. And of course you didn't record there that you were receiving payments of money from Mr Homsey did you?---No.

Because you knew that what you were doing was corrupt?---That's correct but it wasn't, so this is '08. It didn't start till '12/'13.

10

But you didn't disclose to anybody you were receiving payments - - -?---No.

- - - from Mr Homsey because you knew that what you were doing was corrupt?---Correct.

And you tried to hide the fact that you were receiving money from Mr Homsey, correct?---Correct.

20

Now, you were also weren't you a stickler for ensuring compliance with procurement practices by other people within the Rural Fire Service?---Correct.

Yep. And can I ask you this question if I can – in relation to the amount of money that you say you stole from the Rural Fire Service - - -?---Yes.

- - - how much do you say it was?---Um, 360-odd thousand.

30

Okay. Can I show you – I'm going to show, Commissioner, a bundle of letters between the solicitor acting for Mr Hacking and the solicitors acting from, for the Rural Fire Service concerning this matter. There is a letter at the back of it of the 11<sup>th</sup> of May from the Commission which refers to the amount of \$69,500 that was found in the custody of this individual. Thank you.

MR KATEKAR: Is this already in there? Isn't it? Okay. Okay. Yes of course, and there's. Permission to be - - -

MR MOSES: Yes, please.

40

MR KATEKAR: - - - for that to be tendered?

MR MOSES: Yes, thank you.

MR KATEKAR: I'm happy for that to be tendered.

ASSISTANT COMMISSIONER: Yes. This bundle of correspondence will be Exhibit 61.

**#EXHIBIT 61 - BUNDLE OF CORRESPONDENCE BETWEEN  
COUNSEL FOR JOHN HACKING AND COUNSEL FOR THE NSW  
RURAL FIRE SERVICES**

MR MOSES: Now you'll see the letter from your solicitors to Clayton Utz dated 8 April?---Yeah.

- 10 And there is an amount set out there for a cheque for \$340,517 in favour of the Rural Fire Service. Correct?---That's correct.

And as we read the correspondence, \$290,517 was said to be a component of the amount that was improperly received by you?---What, for the snack packs, yes.

I'll come to that. \$50,000 was an estimate of what you received for selling phones on eBay. That's the last paragraph. Have a look at that?---Yes.

- 20 And you will see \$69,550 which was seized in cash from you from ICAC?--  
-That's correct.

And can I ask you this question, how did you calculate the figure that you've set out in this document of \$290,517?---'12/'13 there was about 186,000 snack packs, 10 per cent split, '13/'14 there was 200,000 snack packs, 10 per cent split and '14/'15 there was 100,000 snack packs, 20 per cent split.

- 30 Did you keep – the Commissioner asked you a question yesterday about this, about whether you kept a record of monies that you had received in cash from Mr Homsey and you said “You would keep a record on your iPhone which would then be deleted after a fire season”. Is that right?---  
That's correct.

Okay. Commissioner, can the witness be shown Exhibit 48. It's that spreadsheet which sets out the amounts that were banked into his account. So \$231,882 was given to you over a period of five months into your bank account?---That's correct.

- 40 By Mr Homsey. Correct?---Yes.

Prior to that as you admitted to Counsel Assisting yesterday, you received \$1,500 for a car check in March, 2012? Correct?---That's correct.

And you say the remainder of the amount, that is the difference between the 290,517 and this amount here Exhibit 48 was given to you in cash. Is that right?---The remainder of, yes, that's correct, yeah.

Okay. And what about the money that was seized by ICAC from you, that is the \$69,550, the cash?---Yeah.

That was seized from you on the day that you were apprehended. Where did that money come from?---Scott Homsey.

Scott Homsey as well. And when did he give you that money?---There is a phone record that I kept for this year.

10 That you kept for the 2015 fire season?---That's correct.

And was all the money you received from him for the 2015 season?---No, no. I spent a little bit of it but it's short 10,000. But there's a - - -

ASSISTANT COMMISSIONER: Sorry. I thought your evidence was that you only received 45,000 in cash?---'12/'13?

For '12/'13?---And there was 80,000.

20 For '14/'15?---Sorry. Yeah, '14/'15, yeah, 20,000, 80,000, sorry.

MR MOSES: No, no. Sorry. Just picking up what the Commissioner said. The Commissioner's right. That was your evidence yesterday. So what, what is - you've got 45,000 - - -?---'12/'13.

How much?---'12/'13 was 45,000.

And how much for 2014/2015?---It's up to 80,000.

30 No, no. Up to was it 80, do you know how much?---It was 80,000.

It was 80,000?---(not transcribable)

ASSISTANT COMMISSIONER: So that's a total of 125,000 in cash over those two years?---Yes.

Plus the 230 transferred to your account?---Yeah.

So that's at least 350 or 360?---That's correct, yeah.

40

MR MOSES: Mr Homsey of course says that he gave you more money than what you've admitted to. Correct?---Yes, he does.

Correct. Yeah. And you say that he's not telling the truth about that?---That's correct.



And we'll come to, to that issue in terms of what it is that you say occurred there. The money that you received from Mr Homsey, they were monies that came from the undersupply of snack packs. Is that right?---Correct.

And that was an arrangement which you had with Mr Homsey. Correct?---Correct.

10 When you recruited Mr Homsey to provide snack pack services to the Rural Fire Service. Correct?---I didn't recruit him for that he was already working for the Rural Fire Service but, yes.

See both of you were engaging in a cut throat defence here before the Commission and the Commission will need to no doubt make a finding as to which of you initiated this. Okay. So you say you were groomed, this is, this is what you told the investigators?---That's correct.

You were groomed by Mr Homsey whilst you were unwell as a result of a car accident. Correct?---That's correct.

20 And you say that he is the one who came to you and told you that he had tax problems - - -?---That's correct.

- - - and he could work out a way in which both of you could solve your troubles? Correct?---That's correct.

30 And your evidence is that he entered into an arrangement whereby he would skim 10 per cent of monies paid for the snack packs and give it all to you and he would keep none for the first five month period of this corrupt arrangement. Correct? That's what you told the Commissioner yesterday. Correct?---Well it wasn't supposed to be that way but he ended up putting money just putting willy-nilly in my account, yes.

And what you told the Commissioner yesterday was that you took the whole 10 percent?---Well, it wasn't quite 10 percent, but, yes.

And he took nothing? Is that right?---I think, the first year - - -

40 What was the deal?---The deal was 10 per cent, split. And he was just giving me the 10 per cent, yes.

He was just giving it to you?---Yeah.

And he got nothing out of it?---He got it out the next year.

Right. All right. He got it out the next year?---Yeah.

So was that the deal that you would get it all - - -?---No.

- - - and then he would fix it up the next year?---No, it wasn't the deal.

You're just not telling the truth are you?---I am.

Okay. Now you said, I think in your evidence that you felt under stress, you were abandoned at the time of the car accident?---Correct, yeah.

He sort of like came around and befriended you and look after you?---He used to ring me, yeah, regularly.

10

And he gave you \$1,500 for the car chip?---Yeah.

Who were you abandoned by?---Initially, well, when I say abandoned, the Rural Fire Service was there for me but after, probably after five or six weeks well just, I'd lost like my friends, the work wasn't ringing any more. I was wanting to get back to work. When I did come back to work I was, not ostracised but I was – I just felt different, out.

20

I'll show you a bundle of emails from you in which you've thanked people for their assistance during your period of illness and arranging a thank you lunch for people because of the way in which you were looked after. Just while you're reading them, the reason I'm showing you these is to ask you to accept that at the end of the day, there is no excuse for the conduct that you engaged in by stealing from the Rural Fire Service?---No, that's correct.

30

And what you've sought to do, from your record of interview with Mr Grainger from the Independent Commission Against Corruption, right through to your sworn testimony to the Commissioner, is to make up lies in order to excuse yourself for the shameful and dishonest conduct that you engaged in. Would you accept that?---No.

No. So you want to continue to make up excuses as to why you decided to be a thief? Is that right?---I admit I'm a thief but I'm certainly am not making not excuses. But - - -

And you weren't in need of any money. You received how much in Worker's Comp payout for that accident? What did you get?---865,000.

40

Absolutely. You're a greedy man, aren't you? You are a greedy man, aren't you?---No.

No. You're not a greedy man?---No.

Okay. Do you want to read those emails and do you want to accept the proposition that you were supported very well by the Rural Fire Service and in fact you were thanking the Rural Fire Service and the people there for looking after you whilst you were off from work?---This is during the time I

was at home, yes, that's correct. But as I said, when I come back to work I just felt - just - they were there but they weren't there.

Nobody ostracised you?---Oh - - -

Do you agree with that?---No, I disagree with that.

10 You see, it's very hurtful for you to be sitting there for people from the Rural Fire Service for you to be just casting these aspersions on them - - -?  
---No.

- - - when they, when they attempted to support you through your time of need. Do you accept that?

MR WHITFIELD: I'm not sure what this has got to do with snack packs.

MR MOSES: No, we're coming to his explanation for his conduct. You accept that?---No.

20 No. Okay. Now, in terms of - - -

ASSISTANT COMMISSIONER: Mr Moses, I'll mark that bundle of emails Exhibit 62.

**#EXHIBIT 62 - BUNDLE OF EMAILS BETWEEN JOHN HACKING AND VARIOUS RFS EMPLOYEES FROM 2011**

30 MR MOSES: Thank you.

MR KATEKAR: Thank you.

MR MOSES: Now, this money that you were getting from Mr Homsey you, you didn't need the money did you?---No.

No. Because you had plenty of money received from the payout. Correct?  
---The payout only came last year.

40 Yeah. But you had the money didn't you?---Yes.

Yeah. Only came last year. When did you get it?---August.

August of 2014. Okay?---I think.

And where, where is that money being held at the moment, that money that you got, where is it?---Paid off my house.

Okay. Well, we're going to go through some of these. How many properties do you own jointly with your wife?---Seven.

Seven. Have you got four in New South Wales?---Yes.

Yeah. And what are the suburbs they're in?

MR WHITFIELD: I don't know what this has got to do with snack packs.

10 MR MOSES: It goes to the money that he received from the theft and where it has been deployed because if my friend reads the Proceeds of Crime legislation those properties potentially all become liable to be forfeited so we just want to get to where the money has gone. So answer the question, where are the four properties that you have in New South Wales? ---Lethbridge Park, Kandos, Coffs Harbour and Kurrajong.

And in Queensland?---Yes.

How many do you own in Queensland?---Four.

20

So you own eight in total not seven?---Oh, you asked investment properties but, yeah, eight, yeah.

You own eight properties. I didn't ask investment?---Yeah.

How many properties do you have in your name?---Eight.

Eight. Four in Queensland?---Yeah.

30 Four. And where are they?---In Edmonton, Cairns.

Okay. And let's go through the properties in New South Wales?---Ah hmm.

When did you purchase them?---Kurrajong 2000, Kandos was about 2001, Coffs Harbour was about 2003 and I think Lethbridge Park was 2013.

Yeah. And what about Queensland, those four properties?---2007 and 2008.

How much were you earning at the Rural Fire Service?---Back then 60,000.

40

How much were you earning when you left the Rural Fire Service?---90,000, 95,000.

You also had a Mazda MX5?---Yes.

When did you purchase that?---Last year.

When?---June.

June. How much did you purchase it for?---10,000.

And a Harley Davidson?---Yes.

When did you purchase that?---December, December '13.

December '13?---Mmm.

10 How much did you purchase that for?---I traded two motorbikes in on it and paid \$5,000 towards it.

You traded two motorbikes?---Yes.

Yeah. And what were those motorbikes?---I had a Norton, a 2004 – 2000 and – oh, it was a Norton Commando and a BMW 1200.

And when did you purchase those two?---Oh, back 2000/2001.

20 You purchased those two in 2000/2001?---Yeah.

Do you know how much for?---The BMW was 8,000 and the Norton was seven.

Do you have any other vehicles apart from the Mazda MX5?---Yes. I have a Colorado.

Yeah. When did you purchase that?---April last year I think.

30 How much for?---50,000.

Cash?---No. A loan.

Loan?---And I traded a vehicle in on it.

And who do you have the loan with?---Commonwealth Bank.

Any other vehicles you have?---Yeah. A Colorado – there was a Kluger.

40 And when did you purchase that?---I think it was late 2013.

Yeah. How much did you purchase that for?---42,000.

Did you pay cash?---I drew it out of the bank off the home.

Are you trying to avoid saying that you received moneys from the Homsey transaction that you used to pay for these vehicles, is that what you're trying

to say, that is, you took money from your home loan, is that right, to pay for it?---I took the 42,000 off my home loan, yes.

Did you. Any other cars you have?---(No Audible Reply)

Do you have any other vehicles? Do you have a memory problem? You've told us so far you've got three, are there any other motor vehicles?---There's a, there's a vehicle, my daughter's vehicle.

10 Did you pay for it?---I paid for it, yes.

Yes. What is that vehicle?---A Kluger.

How much?---16,000.

And when did you purchase that?---That would have been 2013 I suppose.

Now, the cash that you were getting from Mr Homsey what did you do with it?---143 I put on Kurrajong.

20

Onto the home?---Yeah.

Thank you. Yeah. Anything else?---No. Just I - - -

The cash you were getting were you putting under your mattress at home? ---Most of it, yes.

And what were you using it for?---Oh, just day to day.

30 Yeah. Did you use any of it for living expenses?---Yes.

Yeah. Anything else?---No. I think I paid, no. I paid out the caravan. That was it.

A caravan?---Yeah.

You've got a caravan too?---Yes.

Yeah. How much did you use to pay off the caravan?---37,000.

40

37,000. How many caravans do you have?---One.

Just one. Okay. Did you use any of the money to assist your daughter in respect of the purchase or renovation of her home?---No.

Do you have boats?---I've got a little tinnie.

Got a little tinnie?---Yeah.

Just one?---Yeah.

Yeah. When did you purchase that?---Oh, a couple of years ago.

When?---2013.

Yeah. How much did you pay for that?---1,800.

10 And did you use the money Mr Homsey gave you to pay for that?---Oh, well, it could have been, yes.

You just don't know?---No.

Did you pay cash?---Yes.

Now, in terms of the knowledge of your wife, did she know about the fact that you were receiving - - -?---No.

20 Can I finish the question - - -?---Yes. Sorry.

- - - before you deny it. Your wife, did she know that you were receiving sums of money from Mr Homsey?---Yes.

She did know, yes?---I led her to believe it was a loan.

You led her to believe?---It was a loan.

All the money was a loan?---Yeah.

30

Did she know that Mr Homsey was providing services to the Rural Fire Service?---No, I really never discussed it I don't think.

So let's, let's be clear about this. You've already been cautioned fairly, very fairly by the ICAC investigators - - -?---Yeah.

- - - during your interview about lying. This is at page 67, lines 29 through to page 70, Commissioner?---Yeah.

40 You were cautioned about this on this very topic so I'm going to ask you – you're under oath now so I'm just going to ask you the question again and please think about it before you answer it. Your wife Sandra was she aware that you were receiving cash payments from Mr Homsey as payments of gifts to you? Think about it before you answer the question?---No, she wasn't but she was aware – I told her it was a loan.

A loan for what?---I didn't go into it. I just said he owes me money and she didn't know.

That he owes you money?---Yeah.

So you'd loan money to him?---Yeah.

And where did she think you got the money from to give to him?---Well, we always, always had money. We'd just draw money out each week and put it in the safe.

10 And what about the phones? I mean you had all these phones. I think in the – again in the interview with the investigators others thought that you were Santa Clause rather than a thief I assume?---Yeah.

(not transcribable) used the word Santa Claus. Because you were giving phones out like confetti weren't you, to her family and friends, is that right? ---Oh, to family and friends, yes.

You were just handing them out?---Well, not just handing them out but yes.

20 You were giving them to them?---Yes.

And who owned that property?---The RFS.

Yeah. And you did it in front of your wife?---Oh, no.

Yes you did. Weren't you handing out the phones in front of your wife from time to time, in front of her family and friends?---Oh, oh well, could, could well have done. I, I don't recall.

30 You don't recall?---Just don't - - -

But did you tell your wife where you were getting the phones from?---No.

You didn't?---No.

Never told her?---No.

And your wife I think is a project manager in finance at Woolworths?---Yes.

40 And in respect of – again if I can go to the money that was stolen from the Rural Fire Service as far as you're concerned Mr Homsey is not telling the truth when he says he gave you the amounts of cash that he did?---That's correct.

Is that right?---That's correct.

And you want the Commission also to accept your evidence that he initiated this, not you?---That's correct.



Okay. Now, you were the procurements manager weren't you at the Rural Fire Service, is that right?---No.

No?---Contracts officer.

Contracts officer?---But acting procurement manager, yep.

10 Yeah, okay. But you were in charge weren't you of procurements?---In charge, no.

Yeah. On a day to day basis you dealt with procurements didn't you?---I dealt with procurements but not in charge.

Yeah. Mr Springett was?---Yes.

Mr Springett wasn't in on the scam you say?---No.

20 No?---Not that I'm aware of.

Not that you're aware of. Were you – just going back again to Mr Homsey were you good friends with him?---Ah, towards the end, yes.

Would you spend time at his house?---No.

Would you go there for barbeques?---No.

No. So you've never been to his house?---No.

30 And you've never been there for a meal?---No. No.

Now, if I can go back if I can to your role as a procurements – if I can call you – well let's call you the contacts officer. You provided assistance and advice to employees of the Rural Fire Service on procurement?---Yes.

Tender and contract management matters?---Yes.

And that also included reference to legislative requirements?---Yes.

40 Public sector procurement?---Yes.

And contract management guidelines?---Yes.

And the procurement policy and procedures of the Service?---Yes.

Now, you gave evidence yesterday to Counsel Assisting, this is at page 199, line 6, Commissioner, that, "Section 44 procurement was not managed

through SAP.” Do you recall giving that evidence yesterday?---That’s correct.

That’s not, that’s not accurate is it that evidence you gave yesterday?---Ah, we started using SAP a little bit for a couple of orders last season but it’s not used predominantly for section 44, no.

Well, let’s go through it. Procurement during a section 44 event - - -?---  
Yep.

10

- - - is not managed substantively in SAP but the invoice details are captured in SAP through the invoice scanning process, correct?---(No Audible Reply).

You know that?---Well, I know, well we started using Dataline but I’m not, not exactly sure if it works - - -

And all - - -?--- - - - if it marries up with SAP, no.

20

And all payments are made through SAP?---All, all payments are made through SAP, yes.

And you gave an answer yesterday to the Commissioner that there was no way to receipt goods outside SAP. That was at page 206, lines 46 to 47?---  
No - - -

Do you recall giving that evidence yesterday to the Commissioner?---No, I think we spoke about goods, receipting miscellaneous yesterday. That’s - - -  
-

30

The Commissioner ask you a question in respect of the matter and you said there was no way to receipt goods outside SAP. Do you recall that or you don’t?---I sort of don’t understand the question.

Okay?---You, you talk about - - -

You were responsible – well let me put it to you this way?---Yeah.

40

You were responsible for updating SAP from information provided - - -?---  
Yes.

- - - from the Glendenning warehouse, correct?---Yes. Well the logistics team, yes.

Yep. And it was your job to upload the details provided by the state warehouse at Glendenning into SAP?---Logistics team, yes.

And they would send you regularly stock updates which you would then have to – it was part of your role to put it in SAP?---Well, part of my role, yes. We did discuss that yesterday.

I'll show you this bundle of emails just so that we get the story right here?---  
Yep.

We don't want the Commission to be misled in respect of your evidence.  
Do you have that?---Yep.

10

If you want to just flick through them and what I want you just to see as you're going through them, see whether you accept my proposition that the warehouse staff were regularly providing you with stock updates during the period October, 2013 through to February, 2014?---They would send me, yeah, they'd certainly send me an email, yeah.

Yeah?---To logistics, yep. Logistics, from Wendy Bucket.

Yep?---Yep.

20

So for instance you'd have Patrick Grady sending you an email telling you what deliveries had been received that day?---Yes.

And then telling you that invoices would be sent, yes?---Telling me invoices will be sent?

Yep. Can you read the first email? "I will send invoices now." Do you see that?---(No Audible Reply).

30 That's the effect of what he's saying?---Yep.

Who's he sending the invoices to?---Oh, he could be sending into logistics.

Yep. So they'd tell you what they had and they would then send the invoices in, correct?---(No Audible Reply).

Yes?---Yes.

40 Okay. Now, Mr Hacking, you assisted in drafting procurement accreditation documents?---Yes.

And I think there's an annexure to the interview statement that you gave to investigators which was the procurement flowchart, and that's been, it's the head office Logistics User Guide, 2011/2012. That was a role that you played in drafting the accreditation reports for procurement. Did you have the role?---I assisted, yes.

Yes. And in Exhibit 15 – does the Commission have a copy of Exhibit 15 to show the witness, the folder?

MR KATEKAR: I've got a folder here – Exhibit 15. There you go.

MR MOSES: Just have a flick through them. In Exhibit 15 these are – oh, Commissioner, just while the witness is doing that could I though Counsel Assisting tender that bundle of emails that I just showed the witness?

10 ASSISTANT COMMISSIONER: Yes. The bundle of emails re stock updates will be Exhibit 63.

**#EXHIBIT 63 - BUNDLE OF EMAILS RE STOCK UPDATES**

MR MOSES: Thank you.

20 MR KATEKAR: Just while we're pausing on that you'll remember earlier there was a bundle of, copy of the gifts benefits register for 2008 to 2011.

ASSISTANT COMMISSIONER: Yes.

MR KATEKAR: I'll just indicate that's already in Exhibit 2, pages 1 to 3.

ASSISTANT COMMISSIONER: Thank you.

30 MR MOSES: Thank you. So, Mr Hacking, these are inwards and outwards goods registers from Glendenning from November, 2011 to April, 2015 - - - ?---Yep.

- - - which record everything but snack packs, correct?---(No Audible Reply).

Correct?---Record everything but snack packs?

Yeah?---Well EMS is here.

40 Yep?---Yep.

Is this the case, the only goods in respect of which there was no proper goods receipting were the snack packs, is that right?---No proper goods receipting?

Yeah – was in relation to the snack packs. That was the effect I think of your evidence yesterday, there wasn't a proper goods receipting for the snack packs, correct?---What do you mean by proper goods receipting like - - -

Well - - -?--- - - - the delivery dockets?

Yeah. Yeah. As to how they were received. The Commissioner asked you some questions about this yesterday and the Commissioner said well hard could it be. Do you remember the Commissioner asking you some questions about this yesterday?---Yes.

10 So were there any receipting documentation for the snack packs that were being received from Mr Homsey?---I don't know. I didn't receive the goods.

You didn't receive the goods?---I didn't receive the goods, no.

No. You resisted the introduction of the SAP goods receipting system, correct?---Of the SAP goods receipting system?

20 You were cross-examined about this by Counsel Assisting. Okay. I'll show you the email?---Oh, yes, with Kylie Seary, yes.

Yeah?---Yeah.

Yeah. Okay?---No, that wasn't the goods receiving it was the actual using the SAP at that stage for section 44, yes.

And that would have, that would have caught the scam, correct – had that been in place that would have not allowed the scam to occur in respect of the snack packs. Correct?---Absolutely.

30 Yeah. And the reason you told her that it wasn't a good idea was because you knew that if that was introduced what you were doing would be uncovered. Correct?---No.

That's why you told her it wasn't a good idea?---No.

Well, in June, 2014 you told Homsey, Mr Homsey that the scam was going to have to end because the RFS - - -?---SAP EAM, AMs was coming in, yes.

40 Yeah. Yes. Was pushing hard to get SAP EAM in. Correct?---That's correct.

That's at page 116, Commissioner, of the, of the Hacking interview with the ICAC investigators, lines 3 to 6?---That's correct.

And instead of being a manual system everything was to go through SAP EAM and be goods receipted and be accountable?---That's correct.

So it was at that point that you were under some pressure to try and get the last bit of money that you could get out of the Rural Fire Service through your theft. Correct?---No - - -

Let's be blunt about it?--- - - - but, yes. Yes.

Yeah. And that's why you put together the memorandum which Counsel Assisting asked you some questions about this morning. Correct?---Yes.

10 Yeah. This is the one – this is the document that you prepared in respect of the \$1.9 million pre-order goods service - - -?---Yeah.

- - - you put that together, you knew it to be a dishonest and fraudulent document because that was the last time that you were going to be able to steal from the Rural Fire Service using this scam?---That's correct.

Yeah. And you misled Mr Yorke with that document?---Yes.

20 Yeah. I mean Assistant Commissioner Yorke relied upon you to do your job honestly and faithfully. Correct?---Correct.

And so did the Commissioner?---Correct.

And you betrayed them by presenting this false document in order to steal from the Rural Fire Service?---Correct.

And it was your idea. Correct?---My idea - - -

30 That document was your idea, you put it together. Correct?---Correct.

Yeah.do you want to blame somebody else for putting it together?---No.

Did Mr Homsey tell you what to put in that document?---No.

No. It was your idea. Correct?---To put the document together, yes.

Yeah. Because you'd worked out by that period of time that your theft would have to come to an end. Correct?---That's correct.

40 Now, in relation to the memorandum that you put before the Assistant Commissioner and the Commissioner, that was the first time that you had initiated this recommendation in respect of a preseason order, correct, in that format?---Correct.

Yeah. And what you were seeking in that memorandum was approval for pre-ordering. Correct?---That's correct.

Yeah. And it wasn't a purchase order was it, it wasn't a purchase order, the document wasn't a purchase order it was a memo from you recommending a certain - - -?---And getting approval, yes.

For a particular policy that you wanted to implement or strategy. Correct?  
---It was, it's a memo signed off to expend that, that money, yes.

10 It's not sign off, it's not sign off for the money, it, what it is, is a recommendation as to a strategy for the preplanning and pre-ordering of goods for the upcoming season. That's what it was wasn't it?---(No Audible Reply)

It was an approval for the pre-ordering of goods and services for that strategy, correct, that's what you were seeking?---It was, yeah, it was, yeah, pre-order, yes.

20 Yeah. And you knew that you couldn't rely on this document to go and spend \$1.9 million. You needed to still go through approvals in respect of the order of items as they would occur. Correct?---Well, put the logistics request in, yes.

Now, Commissioner, I do apologise. I'm at the time – I probably still have, do apologise, Commissioner, about ten minutes to go with this witness. Would this be a convenient time?

ASSISTANT COMMISSIONER: Yes. We'll take the morning to be adjourned.

30 MR MOSES: And, Commissioner, I do apologise. Can I respectfully request this, that a direction be given to the witness not to speak to anybody during the adjournment whilst he's still being examined.

ASSISTANT COMMISSIONER: Yes. Do you understand that?---Yes.

ASSISTANT COMMISSIONER: Thank you.

MR MOSES: Thank you.

40 **SHORT ADJOURNMENT**

**[11.35am]**

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Mr Moses.

MR MOSES: Thank you. Thank you, Commissioner. Mr Hacking, I just want to go back to a proposition that I put to you earlier concerning the recording of snack packs being delivered to the warehouse at Glendenning.

I'll go back to that. The – have you heard of the expression the 'Gooby Pack Man'?---The Gooby Pack Man?

G-o-o-b-y Pack Man, Gooby Pack Man?---No.

No. Okay?---Gooby Pack Man?

10 There was a goods inwards register that was kept at the warehouse to record the details of the freight company and vendor from time to time. Is that right?---I don't know. I've never seen these documents only today.

Okay. So just up on the screen now is the daily good inwards register for 9 February, 2012 and you'll see there, there is a reference there to GPM. Do you see that and description (not transcribable) et cetera?---Yeah.

You see that. Were you aware that from time to time the daily goods inwards register at the warehouse would record if something was being delivered there in respect of snack packs, were you aware of that?---No.

20 No. And the position was, wasn't it, that invoices relating to the snack packs by your arrangement with Mr Homsey were never delivered to the warehouse. Correct? The invoices were not delivered there. Correct?---That wasn't arranged through me. But the invoices didn't go with the goods, no.

No. Well you told Mr Homsey as part, as part of the arrangement for snack packs the invoices were not to be delivered to the area where the snack packs were being sent. Correct?---Not correct.

30 Not correct?---Not correct. Actually on the Logistics orders it said, does say it must go to Logistics. In some cases they'd send them to me.

But at the warehouse you were aware that when goods were delivered to the warehouse the freight company that delivered them would also have delivered the invoice in respect of the goods?---No. Not the invoice.

A copy would be sent there?---No.

40 ASSISTANT COMMISSIONER: Well, I think in fairness Mr Moses, the direction did seem to be that people shouldn't send the invoice with the goods. That's what the purchase order says so - - -

MR MOSES: Correct. And you're correct, Commissioner.

ASSISTANT COMMISSIONER: It may have happened but it – well they were actually not to do it so.



MR MOSES: But the point I was trying to make, Commissioner, and you are right. Was that you were the one who was directing that invoices concerning the snack packs not be delivered to the warehouse?---No.

ASSISTANT COMMISSIONER: Mr Moses, while we're on this - - -

MR MOSES: Yes, Commissioner.

ASSISTANT COMMISSIONER: - - - could I just raise something?

10

MR MOSES: Yes, Commissioner.

ASSISTANT COMMISSIONER: The emails saying we've received seven pallets and the goods inwards register, I don't think it could be suggested that they take the place of proper receipting record and in fact, wouldn't really allow somebody receiving this to know what exactly had been received or whether an invoice should be paid. I just thought I should point out - - -

20

MR MOSES: Of course.

ASSISTANT COMMISSIONER: - - - that that was my thinking on these. Because they do seem very general.

MR MOSES: No. You're right. This was, this was part of a process but invoices were also sent back to headquarters as well. So there was a process and a procedure which was in place at that time, Commissioner. But, yes, you are right. So Mr Hacking, can I just go back if I can then in relation to the delivery of snack packs to the Glendenning warehouse. It was an arrangement between yourself and Mr Homsey that there would be the under delivery of snack packs. Correct?---Correct.

30

And you had devised a plan with Mr Homsey, whereby the under delivery of the snack packs would not be detected because of the systems in place at the time within the Rural Fire Service. Correct?---Not correct.

Not correct?---No.

Well, you said earlier to the Commissioner, that the system that was coming in concerning SAP EAM would have uncovered this scam. Correct?---Correct.

40

So you knew at the time and you were a person in the area of procurements and logistics. You knew at the time that there was a deficiency in the system. Correct?---Correct.

Yes. And it was a deficiency that, as part of your job you should have corrected and brought to the attention of others. Correct?---I think in terms

of logistics, the Rural Fire Service used it as a – they all knew that, you know, they ordered gear against section 44.

But this practice which you deployed for the delivery of the snack packs was a practice that you put into place with Mr Homsey. Correct?---Correct.

And you exploited what you saw was a deficiency in the system. Correct?--  
-Correct.

10 And rather than bring that deficiency to the attention of others you decided to benefit from it. Correct?---I wouldn't say that. I think it was raised quite a few times - - -

What so by you?--- - - -about deficient, well, certainly Paul raised it a couple of times in terms of getting a better system in place to record purchase orders and so forth. But - - -

Indeed others were suggesting the introduction of a SAP EAM system, weren't they?---Sorry?

20

Others were, others were suggesting improvements to the system, weren't they?---Yes.

Do you want me to take you to the email? No?---Yes.

Do you agree with that?---Yes.

And you didn't want the system being implemented at that time, did you?---  
30 Well, if it could be implemented at that time it would've been okay. But it wasn't.

No. But the reason you didn't want any improvements to the system was because your scam would be uncovered. Correct?---I didn't think of it that way. But you could say, yes.

Now if I can just go back to the – I think if I can call them the Corrective Services questions that Counsel Assisting asked. I just wanted to clear up something. You said, I think, in the evidence that you've given is that Corrective Services were unreliable in relation to their delivery of snack  
40 packs. Is that right?---That's correct.

And you also have said that there was difficulties in terms of being able to have deliveries being brought in and out of the prison. Correct?---That's correct.

Now when you decided to tell Corrective Services that there services were not required at the moment it's true, is it not that you lied to them in the

email that you sent them in respect of the snack pack production. Correct?--  
-I wouldn't say, I mislead them, yes.

You mislead them?---Yeah.

Well you didn't tell them the truth, did you?---No. I spoke to Holly  
McPherson.

10 I'm sorry?---I spoke to Holly McPherson. We had a number of meetings  
about the deliveries to the gaols, getting the trucks into the gaols. But just  
brief discussions.

But the reason you terminated the Corrective Services arrangement was  
because you wanted to give it to Mr Homsey. Correct?---Yes.

And you wanted to give it to Mr Homsey to get a benefit. Correct?---  
Correct.

20 Yes. And that benefit started back in 2011. Correct?---2012.

Now the 2014/2015 fire season came off the back of the devastating fire  
season in 2013. Correct?---Yes.

And you were seeking to put forward this proposal for reorder in order to,  
you say, on it's face to have the Fire Service ready for the 2014/2015  
season?---Yes.

30 And you decided to exploit the section 44 procurement process - - -?---Yes.  
- - - in order to obtain a benefit. Correct?---(No Audible Reply).

Now, can I just go to some issues that you've raised concerning Assistant  
Commissioner Yorke if I can. It's fair to say is it not that you deceived the  
Assistant Commissioner in respect of documents that you were requiring  
him to approve in respect of logistics requests, is that right?---(No Audible  
Reply).

40 You, you deceived him. That is you put before him documents which you  
knew were not true. Would you agree with that?---Well - - -

Just as a broad proposition. I'll take you to some of the documents if you'd  
like. Would you like that?---Yep.

Okay. What I'm referring to are the purchase order documents which  
stipulated that certain amounts were being provided by Mr Homsey's  
company in respect of snack packs. Correct? Do you know what I'm  
referring to?---No I don't, sorry.

Okay. Well you said in your evidence yesterday that Mr, Assistant Commissioner Yorke would just approve things. Do you recall giving that evidence?---Yes.

Yeah. You're not meaning to imply that the Assistant Commissioner would not do his job properly are you?---Not at all, no.

10 No. Because what you did was to deliberately provide him with documentation that you knew to be false in order that it be approved because it fell within a section 44 fire season, correct?---Correct.

Yeah. And it was because of the deceit contained in documentation prepared by you that the fraud occurred, correct?---Correct.

And you weren't meaning to suggest in your evidence were you that in respect of Assistant Commissioner Yorke that somehow he would just tick and flick items, is that right?---Well, that happened.

20 Yep. That happened?---That happened.

Yeah. So you thought that's what he did so you would just dump a whole lot of material in front of him, as the Counsel Assisting said?---I'd, I wasn't always the one that took the information down but - - -

Right. Well there were times wasn't there when the Assistant Commissioner would not be able to approve a particular purchase order because it fell outside of his delegation?---That's only just recent after being picked up in an audit last year, yes.

30 Okay. And that he would then refer matters off for approval by the Deputy Commissioner?---That's correct.

Yeah. And there would be occasions where that would be brought to your attention whereby the Assistant Commissioner was not in a position to approve a particular logistical request, correct, and it would have to go elsewhere?---Not to me, no.

40 No. But you were aware that it happened, correct?---It would go up the chain, yes.

And what you were doing by putting documents in front of the Assistant Commissioner was to exploit the section 44 system in order to hide your fraud, correct?---Correct.

And Assistant Commissioner Yorke from time to time did question invoices that were presented to him by you?---Ah, he did question invoices but not necessarily presented by me. But I, for logistics, yes.

Yeah. But you were aware that from time to time he would question invoices?---Yes. Yes.

And ask for more information?---Yes.

Yeah?---Mostly on heavy plant.

10 Yeah. And you were aware of course that the Assistant Commissioner was relying upon you to provide accurate information and report to him, correct?---Relying on logistics, yes.

Now, can I just ask you this about Mr Springett, I can?---Yes.

Did you report to Mr Springett?---Yes I did.

Was he your direct line manager?---Yes he was.

20 And were you for a time holding the position of Acting Manager of Procurements?---Oh, yes I was.

Yeah. For how long?---I think two years.

Yep. From - - -?---Two - - -

- - - what period?---Oh - - -

From what period?---Oh, 2008/2009 to 2011. Just, well just before the car accident, yeah.

30 Okay. And in your role in terms of reporting to Mr Springett what was the reporting that you did to Mr Springett in terms of your job?---(No Audible Reply).

Would you submit to him memorandums in respect of items that were to be, that were to be purchased?---No.

40 Okay. So how would you report to him as to what you were doing?---Paul at that stage was working in the, the (not transcribable) job like, I used to report to Peter Hennessy.

And in respect of Mr Springett you sitting here today of course have said that you weren't aware of any money that Mr Homsey was giving to Mr Springett, is that right?---That's correct.

Yep. And you've been sitting during this hearing listening to evidence from Mr Homsey about a payment of cash that he made to Mr Springett to reimburse him for a courier?---Yes.

Do you recall hearing that evidence?---Yes.

Okay. Did you ever discuss with Mr Homsey the fact that Mr Springett was somebody who supervised you and somebody that you reported to?---Ah, he knew that.

Mr Homsey knew that?---Yes he did.

10 And how do you know he knew that, did he talk to you about it?---Oh, when we had meetings, Paul and I had meetings with him. It was in Paul's office.

About the provision of snack packs?---Oh, about provision of all Cambro or um, working on meals, yeah.

Did you ever have a discussion with Mr Springett about money that you were receiving from Mr Homsey?---No.

20 Did you ever have a discussion with Mr Homsey that he should be making payments of money to Mr Springett or providing him with gifts in order to grease the wheels in respect of the provision of work to Mr Homsey's company?---No.

Now, yesterday the Commissioner said to you – I withdraw that. On the 3<sup>rd</sup> of June the Commissioner put a suggestion to Mr Homsey in effect that it sounded like he was hanging out for some fires to start in order to benefit from section 44 procurement of snack packs. Do you recall being present when that was - - -?---Oh - - -

30 - - - put to him?---Yeah.

Yeah. And with respect the Commissioner captures it perfectly didn't she when she put that proposition to Mr Homsey, isn't that right?---I suppose so, yeah.

Yeah. Because the both of you were waiting for a misfortune to occur in order to place a section 44 order to facilitate your scam, correct?---(No Audible Reply).

40 That's correct isn't it?---That, that, no. That's not entirely correct.

Not entirely correct?---No.

Well what part of it isn't entirely correct? You were setting out to make money from the misfortune of others in the community weren't you?---That's correct.

Yeah. And you were waiting for an event that could potentially devastate the lives and property of others so you could profit, correct?---If you want to put it that way, yes.

I have no further questions, thank you.

ASSISTANT COMMISSIONER: Thank you.

10 MR HEENAN: Commissioner, I have some questions for Mr Yorke, with your leave.

ASSISTANT COMMISSIONER: On behalf of - - -

MR HEENAN: On behalf of Mr Yorke.

ASSISTANT COMMISSIONER: Yes. Yes.

MR HEENAN: My name is Heenan, solicitor to Mr Yorke. You'll recall you were asked some questions about this in relation to your interview on  
20 12 March, 2015. You were asked about Mr Yorke signing documents and you gave an answer to the effect that Mr Yorke would sign anything?---Yes.

Do you remember giving that answer?---Yes.

And on the 4<sup>th</sup> of June Counsel Assisting put to you in effect that Mr Yorke would sign documents without checking them and you disagreed with that proposition, do you remember that?---Yeah, oh, no, not really. But, yes.

30 Well, it wasn't the case do you say now that Mr Yorke would simply sign anything without questioning it or without checking the documents?---Oh but - - -

Wait, wait, wait?---At, at - - -

The document – wait a minute?---Yep.

40 Documents that you placed before him or that you caused to be placed before him wasn't it?---At times um, Steve used to go through them and, and sign them. At times we used to take bundles down saying these need to be paid and he would just go through and sign them. Sometimes he checked them.

On occasions, particularly during a section 44 event or perhaps a class 1 or 2 fire he would be required as part of his function to sign a very large number of first of all purchase orders and secondly invoices, would he not?---Um, I don't know about purchase orders but certainly invoices, yes.

And he would be given on occasions very large numbers of them in bulk during such an emergency event - - -?---Correct, yes.

- - - to sign?---Yes.

And not all of the – they wouldn't necessarily have been in order I suggest to you in the sense that a bundle would relate to one emergency or one section 44 event would it?---No.

10 So there'd be a mixture of documents for example from different fires that - - -?---Correct.

- - - he would be required to sign. And you've agreed I think with learned Senior Counsel Mr Moses that there were occasions where he would question you and other Logistics staff about such documents that were, that were put before him?---Yeah, but predominantly on heavy plant, yes.

Okay. And of course in relation to the invoices and also the Logistics requests - - -?---Yeah.

20

- - - he was in position was he, it's probably obviously to say it, but in no position to check himself at a fire scene or at the warehouse or whatever as to whether those items required were legitimate was he?---No.

He, he would, particularly during an emergency almost never attend the scene of that emergency would he?---Attend the scene?

Yes?---Oh, I think he did go out a few times but normally no.

30 It wouldn't be a normal thing for him to do, to go out from Headquarters - - -?---No.

- - - during an emergency to the event itself would it, would it?---Not normally, no.

So he was in his position, and indeed, perhaps I don't represent the Commissioner, but the positions at that level he, he was in a position where he had to trust both, certainly the incident controller putting through the requests and you in Logistics to be doing your jobs properly in terms of items that were required at the scene?---That's correct.

40

And you've agreed I think generally in your answers that by your conduct you breached that trust with him and with the Service - - -?---That's correct.

- - - generally. Now I don't have the exhibit number but in relation to the memorandum that has been discussed by learned Senior Counsel with you this morning of 30 June, 2014, the pre-season order which included for 100,000 snack packs - - -?---Yes.



- - - and you, you agreed in essence that you generated this document as part of the, the scam that you had going with Mr Homsey?---That's correct.

Now I don't know whether - that document is now on the screen - - -?  
---Yes.

- - - before you isn't it? If perhaps page 2 could be, could be shown with the consent of the Commissioner, you see page 2 there?---Yeah.

10

You, you not only had that signed by Mr Yorke, you had that signed by the Commissioner himself didn't you?---Yes.

And you knew before you generated it that it would have to be signed by the Commissioner?---It normally goes up through the, the chain of command, yes.

Well, this document, you knew that this would have to be signed not only by Mr Yorke but by the Commissioner himself?---Yes.

20

So you were perpetrating a deception it's obvious to say on the Commissioner?---Yes.

Now you've said to Counsel Assisting yesterday I think that in relation to the document which followed that which is the Logistics request to State Operations in August, 4 August, 2014 - - -?---Yeah.

30

- - - and I think with the kind assistance of the Commission that's now before you, you generated that document as part of the scam as well didn't you?---Yes, part of the memo, yeah.

Yes. And you said to Counsel Assisting yesterday words to the effect, I didn't draw Mr Yorke's attention to the fact that the quantity was blank?  
---No, because he'd, he'd signed the memo.

40

Yes, so this particular document - I withdraw that. For him to sign the document at 4 August, 2014 didn't go beyond any delegation that he had did it?---No, no, no. Because the memo was signed previous I just look the Logistics request down to get it signed off by Steve and then filled in the quantities but - - -

Yeah?--- - - - it had already, the memo had already been signed off.

Yes, this, this document, this Logistics request had in effect already been authorised by the, by the signing of the June memorandum?---Yeah.

Okay. And when you eventually put in the quantity of 100,000 that was to maximise, sorry, maximise I'm sorry, the take as it were for you and Mr Homsey - - -?---Correct.

- - - in relation to the snack packs?---Yes.

In fact you could have made those Logistics requests in stages could you not with smaller amounts?---Not normally. If we - in the pre-season ordering we would go an place a big order and spread it out.

10

But did you make it 100,000 immediately which is the maximum entitlement under the memorandum wasn't it?---That's correct.

Did, did you do that having in mind that you had to act quickly because of the SAP system coming in?---No.

You did it just as it were to maximise the, the benefit that you and he were going to obtain?---That's correct but this is, this was just the normal practice each fire season.

20

And you said further in answer to Counsel Assisting "I intended to fill it in when I got it back. I didn't expect him to look at it carefully." Remember saying that?---No, I don't but at times Logistics, Logistics requests don't, do come through without quantities on them.

Well, what I want, I want to obtain from you if you don't mind is that did you deliberate leave out the quantity on this, this occasion, the 4 August Logistics request, so that Mr Yorke wouldn't be alarmed or his - - -?---No, because - - -

30

- - - concern generated?---No, because I was relying on the memo to approve it.

So to leave out the 100,000 was not part of the deception of the Service? ---No.

Okay. In fact it's the only part that's handwritten in the document isn't it? ---That is, that's correct, yeah.

40

So are you saying that you just omitted to put the figure in before he signed it?---Well, that, that could well be but it was, it was, the memo was signed off a couple of days beforehand, I just didn't, just didn't put it in.

Well, it wasn't a couple of days beforehand?---30<sup>th</sup>.

30 June, 2014, is that right?---Four weeks.

Yes?---I was just going through and placing the orders for the pre-season.

And you certainly didn't bring that document back to his attention, the Logistics, request did you after – that you'd amended it after he'd signed it hadn't you?---Sorry?

You'd added the 100,000 - - -?---On the Logistics request?

Yeah, after he'd signed it?---Yes.

10 But you didn't take it back to him and draw his attention to that fact did you?---No, because I was relying on the memo that was signed beforehand.

So are you telling the Commission that you just, you just noticed that the, the quantity was missing when it had come back signed from Mr Yorke are you?---Ah - - -

Or do you have no recollection of that?---Yeah, I don't, I don't recall, no.

Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Yes, thank you, Mr Heenan.  
Mr Whitfield?

MR WHITFIELD: Yes, Commissioner, might I just have five minutes, it might shorten things just to – with Mr Hacking to see if there's anything he wants me to ask to tidy up.

ASSISTANT COMMISSIONER: Yes, all right.

30 MR WHITFIELD: Thank you, I'll only take five minutes.

ASSISTANT COMMISSIONER: Yes, well, we'll adjourn for five minutes.

MR WHITFIELD: Thank you.

#### **SHORT ADJOURNMENT**

**[12.30pm]**

40 ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes,  
Mr Whitfield.

MR WHITFIELD: Mr Hacking, I indicated to you – we were just discussing there that I've prepared a document which was referred to as Hacking – moneys received for snack packs. Can I just show you that document. Can I approach or – this document represents as I understand it your evidence as to what you have received from Mr Homsey with reference to the number of snack packs that were produced in that fire year?---That's correct.

So 2012/2013 there were 186,000 snack packs, 10 per cent of those 18,600, 18,600 multiplied by 14.50 is 269,700 and 50 per cent of that is 134,850. So that's a split of the 10 per cent. Is that right?---That's correct.

But in fact Mr Homsey for reasons that I think you've indicated are not too clear to you, is that correct?---That's correct.

Paid you 231,000?---That's correct.

10 Right. 2013/2014 this is when the cash started to be paid?---Yes.

200,000 snack packs, 10 per cent split, 290,000 is, is half of the 10 per cent. 145,000 under that arrangement should have gone to you?---That's correct.

And you received 45,000 in cash?---That's correct.

Is that right?---That's correct.

20 And in 2014/2015, 100,000, 20 per cent, 145,000 is half of the 20 per cent. Should have, you should have received 145,000 but you got 80,000. Is that right?---That's correct.

And you have no idea of how he calculated those amounts as payable?---No.

And you tell the Commission that he was the one controlling the payments? ---That's correct.

That you did never ring him about payments?---No.

30 Or ask him to set aside - - -?---No.

And then you've repaid 356,000 – sorry, sorry, sorry, the total received then by you is 356,000?---Correct.

ICAC has seized 69,500?---Yes.

You have paid back \$290,000 which is the amount of money less what's in the ICAC safe or trust account?---Yes.

40 And you paid another 50,000 in relation to the moneys that you obtained from the sale of mobile phones?---Correct.

Although that amount is probably more than you should have paid as to the proceeds of sale - - -?---That's correct.

- - - by about \$3,000?---About \$7,000.

Sorry, \$7,000. Just quickly flowing through. Procurement process, under that heading. The logistics spreadsheet that was presented yesterday I'm not sure whether you said this that it can be – the spreadsheet can be changed to reflect anyone's name at any time. Is that correct?---That's correct.

Now, there was a flowchart yesterday tendered which was a, a flowchart for all procurement activities. What do you want to say about that flowchart?  
---When, when we were talking about the flowchart yesterday that has been part of the accreditation that was for general procurement and the hearing or  
10 the Commission has been referring it back to the section 44. At no stage have I ever been told to use that procurement methodology for the procurement of section 44 items.

Still under the heading procurement, the question is how many ways do the staff or members of the RFS have to, have to – for them to make purchases, is there any other way of doing that?---So there's – the RFS has – well, the RFS districts have three methods of procuring items. General, through the general purchasing system of SAP, through the S44 purchasing system and  
20 if they can't get items through those systems they can procure through the council purchasing system.

So that's without involvement of logistics?---That's outside – logistics outside the RFS.

Again I think you've answered this but just for clarity, in regard to payment invoices that just have your signature on them should they be paid?---No. That's a breach of financial practice.

Are you aware of any instances where invoices have been double paid to  
30 suppliers?---Yes.

Can you give any examples of that?---There was a heavy plant back the 13/14 fire season, I think it was 18,000 and he got a double payment of 18,000. He phoned me up and he sent the cheque back.

But Homsey never got a double payment?---Not that I'm aware of.

Right. Were you the sole decision maker in relation to procurement again, within the position you held in the RFS or did you seek consultation?  
40 ---Most of the – the majority of the time it was all discussed with Paul.

Now, the Commissioner made reference to receipting process at Glendenning in relation to receipting items into head office and it wasn't done by the storeman at Glendenning. Can you tell us why that was?  
---Done by the storeman at head office.

At head office. Why was that, sorry?---The storeman at – he struggles with using the computer so he delivers the gear and asks the people to, to receipt

items. We've always with John O'Neill in terms of receipting the goods into head office. They don't get checked. He just signs off when they turn up. Just a lot of stuff goes missing.

Suggestions made in the questioning that Mr Homsey – that you requested Mr Homsey to pre-invoice the RFS. Did you ever do that?---I didn't do that, no.

10 Was he ever paid for goods and services in advance of receiving goods and services?---Not that I'm aware of. However there's been, there's been some instances in the Rural Fire Service where we have paid in advance for products or for a service without receiving that service to ensure that we get the payment through before the end of financial year.

Now, I think you add to the, the, the sheet – or you put people on the sheet to lock them into the system, the spreadsheet. Is that right?---Yes.

20 If I were to buy something as a supplier I have to go onto the spreadsheet? ---Yeah.

To be recognised by the spreadsheet. Is that right?---Yes.

Is there any due diligence process in relation to adding a supplier to the spreadsheet?---During section 44, no, there's really no process in place. We just get the people happening and then – we have had instances where we've been dealing with a supplier that doesn't have an ABN or he's just a sole trader. There, yeah, there's no real due diligence prior to using that, that vendor or supplier at the start of a section 44.

30 So I guess the obvious question is how did, how doing any due diligence of any kind would the RFS have missed the bankruptcy of Mr Homsey?---I've been thinking about that myself.

He was already in the system though wasn't he, he was already on the spreadsheet?---That's right.

I think that was in about May '12 so would you normally do a bankruptcy search or a ASIC search?---I do believe - - -

40 For a supplier?---I do believe Finance do a ABN search when they originally set up the supplier, how often they do the due diligence check on the suppliers you'd need to ask Steve O'Malley.

So that is not part of your duties?---No.

Now Corrective Services, there's been some suggestion that Mr Homsey was getting a nice mark up on his snack packs compared to Corrective Services, what do you say about that?---With, with Corrective Services they,

they were charging at the end there \$12.10. I don't believe that they pay the prisoners so if you looked at the snack packs at a \$6 or \$7 snack pack, they're making 100 per cent mark-up charging back to a Government agency.

10 Now under the heading Class Rating for Fires Within the RFS, what's the position with class 1 and 2 fires?---With class 1 and class 2 fires that would normally be paid by council or the, the, the local area that the land was managed by. About four years ago management decided to change the process and start taking a bit of the burden off councils so the class 1, class 2 fires or the cost to those particular events I believe get rolled up into section 44 costs.

And that's a class 3 fire is it, section 44---That's a class 3 fire, yes.

So 1, 2 and 44 are all rolled up - - -?---I believe so, yes.

20 - - - under the same heading. In regard to class fires Counsel has concentrated on 44's, did these types of orders get used for any other class fires other than 44's?---Certainly section 44 got used for all class of fires. There was no difference between, the Logistics request would come in, we'd just place the order.

So there was no differentiation?---No differentiation, no.

And are section 44 fires claimable from the disaster funding?---Yes.

30 And who, and who's, who funds a disaster if I could put it that way, where does that funding come from?---I believe it comes from Treasury.

Federal, State?---I'm not entirely sure on that actually, I think it's State.

What happens to the costs of the other class fires?---My belief is the costs, the class 1, class 2 costs get rolled up into the class 3 fires and absorbed.

And why would that happen?---To alleviate the councils, take the burden off councils and so the RFS after its \$7 million can actually claim it back instead of paying for it themselves.

40 To the best of your knowledge has section 44 funding been used to purchase capital equipment?---Yes, it has. There's been quite a few times, I suppose the biggest purchase that I've seen go through is purchase of a helicopter engine which was about \$600,000, State Ops purchased some computers and TV screens for the new mapping tables of about \$30,000, they bought headsets for the different, around the room, used to upgrade the media section, it was, it's, it's, it's a cash cow, they use it.

MR WHITFIELD: Going to mobile phones did other members of the procurement team – I don't have any trouble with that word, Commissioner – have access to mobile phones?---Yes, we all had um, mobile phones to hand out to um, staff when they required them.

[REDACTED]

10 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

30 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

40 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





MR WHITFIELD: Exhibit 49 which I think is a statement from Wendy Buckett there was a reference to annexure C and Counsel indicated, Assisting, that this process must have been put in place prior to Mr Hacking leaving the RFS. That was that document showing us some sort of a flowchart, as I recall it. Can that be brought up, please. I think I have the right. That's the one. Now, I think it was suggested that you knew about that document or - - -?---I was asked if I knew about it.

- - - was something you had reference - - -?---Yes.

Yeah. What do you have to say about that document?---Like, like I said yesterday I haven't seen the document before. Um, I'd just like to know when it was produced. Was it produced after everything happened or was it

---

Do you know if it's up on the internet as was suggested?---Um, going by Wendy Buckett's statement no, it's not on the intranet yet.

Intranet as opposed to the internet?---No, intranet. The internal - - -

Internal. Now, I don't know, I don't know the actual line where it was but there's been suggestions that you were giving jobs to the boys. You gave jobs to your brothers, to your brother. Can you say something about the culture in the RFS?---Well, it's, within, the culture within the RFS is to, to try and use volunteers or volunteer related companies. Um, it's encouraged. But I'll give you a number of examples of, of - - -

30

MR MOSES: Can I just object to this again, Commissioner?

ASSISTANT COMMISSIONER: Yes.

MR MOSES: I mean, this person in the witness box now is seeking again to improperly slander others. He has admitted under questioning from Counsel Assisting that the job was given to his brother as part of a favour given to him by Mr Homsey who was receiving illegal money back as part of ripping off the RFS. Now, this individual is not suggesting that others were stealing from the RFS and getting benefits for family members which is what the allegation was put properly and fairly by Counsel Assisting. This is a complete waste of time and a drive-by defamation of others and really the questions should be very carefully being put by his lawyer and this individual should be given an opportunity, the thief that he is, to make allegations from the witness box against others.

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MR WHITFIELD: I was just asking about the culture in the RFS.

MR MOSES: The which?

MR KATEKAR: Well - - -

ASSISTANT COMMISSIONER: Well - - -

MR MOSES: With all due respect - - -

MR WHITFIELD: If, if - - -

10

MR MOSES: With all due respect - - -

MR WHITFIELD: Well, it's a matter for the Commissioner.

MR MOSES: What is being said, that a culture within the RFS somehow permitted him to be a thief?

MR WHITFIELD: No.

20

MR MOSES: He has admitted – well it's no. Well then that's the end of it I would have thought, Commissioner.

MR WHITFIELD: But again I, again he fessed up not to Counsel Assisting, he fessed up well before that as you are well aware, Mr Moses, well aware - - -

MR MOSES: He fessed up to the ICAC investigators - - -

MR WHITFIELD: He fessed up and he - - -

30

MR MOSES: - - - that caught him.

MR WHITFIELD: - - - and he repaid the money.

MR MOSES: Well we'll see about that.

40

ASSISTANT COMMISSIONER: Yes. Mr Whitfield, in respect of this witness we've been examining specific instances where his brother was given work and part of the allegation is it was concealed through the use of Mr Homsey's company. That is not the mere fact that his brother was doing work and there may well be a lot of instances where friends or relatives are given work because they're known in the community or whatever. I don't think it's useful to discuss generally other instances where we won't know the full facts and we're not going to go into the full facts. It also raises procedural fairness issues for people who aren't represented here.

MR WHITFIELD: I'll sit down.

ASSISTANT COMMISSIONER: Thank you.

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]



MR WHITFIELD: Thank you, Commissioner.

10 ASSISTANT COMMISSIONER: And I think Mr Whitfield's finished now  
in any case?

MR WHITFIELD: If you please, I have, Commissioner.

ASSISTANT COMMISSIONER: Yes.

MR KATEKAR: Commissioner, I have some questions - - -

ASSISTANT COMMISSIONER: Yes.

20

MR KATEKAR: - - - but it will need to be at 2 o'clock.

ASSISTANT COMMISSIONER: All right. Well we'll adjourn. I'm sorry,  
you'll have to come back at 2 o'clock. We will adjourn until 2 o'clock.

**LUNCHEON ADJOURNMENT**

**[1.03pm]**