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HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION YANCEY

Reference: Operation E13/1916

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 25 JUNE, 2015

AT 2.34PM

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

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

THE COMMISSIONER: Yes, Mr Brady.

MR BRADY: Yes. Thank you, Commissioner. You were just going to make some inquiries in relation to your mortgage account over the break. Did you get the opportunity of doing that?---Yes.

10 And is your mortgage in excess of what you have in the offset account?  
---Yes, it is.

How much?---Oh, mortgage 272 and the offset's 207.

Right. So about \$70,000 more than the offset. Is that right?---Yes.

Before you started doing work for the Department of Justice did you have a bigger mortgage?---I never had a mortgage.

20 Right. How much did you buy your property for?---610.

And did a significant portion of that come from the money you made on the Government contracts?---Yes.

Now, the first invoice you sent in relation to these contracts, set aside Blacktown for the moment, was on 12 March, 2013 and the last invoice you sent was on 21/11/2013, so basically eight months between the two of them. Do you understand that?---Yes.

30 You got paid through SAFF or Triton \$1.285 – oh, \$1,285,537. Do you understand that?---Yes.

That's approximately getting paid by the Government \$160,692 per month. Do you understand that?---Yes.

And the extent that you can tell us what you did for that \$160,000 per month is what you've been saying over the last day and a bit?---Yes.

40 Why did it stop?---Why did what stop?

The contracts that were worth \$160,000 a month to you stopped didn't they?---Yes.

Why?---What?

THE COMMISSIONER: In other words, why didn't you continue to receive work from the Department?---Well, it's pretty obvious. The

investigation took place and I was no – I don't believe I'll ever be able to get a contract with the Department again.

MR BRADY: No one other than Anthony Andjic was giving you work were they in the Government?---He was the main guy.

No one other than Anthony Andjic was giving you work in the Government was he?---He was the main guy.

10 Yes, nothing further. Thank you, Commissioner.

THE COMMISSIONER: Anyone wish to question Mr Chacra? Anyone wish to ask questions before you, Mr Ayache. I'm just, I'm just asking. Anyone? No. Yes, go ahead.

MR AYACHE: Commissioner, whilst I don't seek to re-examine him at this point in time, can I reserve my position and I'll tell you why. The transcript of Mr Chacra's evidence was not published till about 10.00 or 11 o'clock this morning.

20

THE COMMISSIONER: Yes, all right. Well, you can – we can recall him at some stage if you wish to raise any further matters.

MR AYACHE: Yes.

THE COMMISSIONER: Yes. Thank you.

MR AYACHE: I can let you know by hopefully Monday because I don't think we're sitting tomorrow.

30

THE COMMISSIONER: No. That's right.

MR AYACHE: Yeah.

THE COMMISSIONER: That's right. All right. Well then we'll delay any further examination of Mr Chacra. You can stand down, Mr Chacra.

40

**THE WITNESS STOOD DOWN**

**[2.38pm]**

MR BRADY: Commissioner, just before I call my next witness I wonder if I can you ask you make a suppression order for the personal details of witnesses as set out in a brief and obviously that appear on the screen. Such as telephone numbers, address and bank account details.

THE COMMISSIONER: All right. I suppress from publication any personal identifying information that have been published within the brief

such as personal phone numbers, bank account numbers, private addresses and any other information capable of identifying the individuals in that material.

**I SUPPRESS FROM PUBLICATION ANY PERSONAL IDENTIFYING INFORMATION THAT HAVE BEEN PUBLISHED WITHIN THE BRIEF SUCH AS PERSONAL PHONE NUMBERS, BANK ACCOUNT NUMBERS, PRIVATE ADDRESSES AND ANY OTHER INFORMATION CAPABLE OF IDENTIFYING THE INDIVIDUALS IN THAT MATERIAL.**

THE COMMISSIONER: Yes, Mr Brady.

MR BRADY: Yes. I call Paul Richardson.

MR MICHAEL: May it please the Commission, my surname is Michael.

20 THE COMMISSIONER: Yes, Mr Michael.

MR MICHAEL: I seek leave, Commissioner, to represent Mr Richardson.

THE COMMISSIONER: Yes. That leave is granted. Thank you.

MR MICHAEL: I understand also, Commissioner, that Mr Richardson will be sworn and he also seeks a section 38 declaration.

30 THE COMMISSIONER: Thank you. Mr Richardson, can I just clarify with you. You appreciate that the order under section 38 protects you from the use of your answers against you in civil or criminal proceeding but it doesn't protect you if it should be found that you've given false or misleading evidence to the Commission. You understand that?

MR RICHARDSON: I do.

THE COMMISSIONER: You would still be liable for a prosecution under the ICAC Act if that were the case. You understand that?---

40 MR RICHARDSON: I do.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT  
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT  
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL  
DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS  
DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS  
PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN  
GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO  
10 NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT  
OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR  
THING PRODUCED.**

THE COMMISSIONER: Can we have the witness sworn, please.

THE COMMISSIONER: Yes, Mr Brady.

MR BRADY: Thank you, Commissioner. Could you please tell the Commission your full name?---Paul Geoffrey Richardson.

10 And what is your occupation, Mr Richardson?---I'm a managing director of a construction company.

What's your qualifications - - -?---I have a - - -

- - - in construction?---Yeah. Sorry. A Bachelor of Construction Management from UTS.

When did you get that?---1994.

20 All right. Since then what have you been doing in relation to managing construction?---I have worked – I worked for employees. Ah, sorry, for an employer for around 10, 12 years and then in 2004 I started my own company.

Since then what have you been doing in relation to managing construction? ---I have worked – I worked for employees, sorry, for an employer for about 10, 12 years and then in 2004 I started my own company.

30 And what's the name of that company?---Patterson Building Group Pty Limited.

Has that company then been in the building trade since 2004?---Yes.

And are you continuing in the building trade with Patterson Group? ---Yes.

How many people does Pattersons employ?---Approximately 50 people.

Are they full-time, contractors or both?---Full-time.

40 Right. And then how many subcontractors would you have at various times?---At any one time on a, on a day probably around two to 300 per day.

Now is your company prequalified with New South Wales Office, Finance and Services?---Yes, it is.

When did you become prequalified?---Probably around 2007.

How did you go about doing that?---I inquired as soon as I started business, it takes two years, you've got to be in business for two years before you can, to be eligible to qualify.

Can I just stop you there and so you've got to be in business for two years?  
---Yes.

Obviously you'd been in construction for a lot longer than that?---Correct.

10 What has to be in business for two years?---The company that I own and run.

All right. Okay. So that needs to be in business for two years so you waited for the two-year period?---So we had, yeah, we waited for the two-year period. Once we met that we then made application and also you have to then have your systems like quality assurance, environmental, OH and S it was called at the time to be to a certain level, standard, and you make application and it can take a while.

20 What sort of things are you asked for in relation to being prequalified?  
---A summary of all the projects you've done, client referee reports on those projects so you can prove your performance, your financials, that would be the main criteria.

Now do you get prequalified for a certain amount of work?---Yes, you do.

When you first applied what was your prequalification for?---One million.

Did that change?---Yes, it did.

30 When?---It was around two years after that, this is approximately because it's been going for 11 years, we got to five million and in the last 12 months we've been qualified to 15 million - - -

How do you go about - - -?--- - - - prequalified.

I'm sorry, I didn't mean to cut across you?---No, you're right.

40 How do you go about getting those changes?---You have to make an application for - I think it's called an upgrade of your accreditation or financial level increase so then you need to prove you've done projects of that value that you're trying to seek qualification for.

Now in 2013 were you invited to tender for work at the Camden and Picton Courthouse?---Yes.

And there was a tender closing date of 14 March, 2013?---Umm.

You don't remember the exact dates?---I don't exactly remember the date but yeah, we, we submitted our tender by the due date and by the due time, I can recall that.

Who in your organisation prepares the tender?---A number of people, our estimator put the – one of our estimators put the bid together and then I do a review of that tender before its submitted.

10 How long does it take to do a tender?---That tender – well, this particular job would have taken probably around a week to do that.

Now ultimately having put in that tender did you get the job?---Yes, we did.

Had you done courthouse work before that?---I don't think we had.

Has you done any work on heritage buildings before that?---Yeah, we would have.

20 Do you know how many?---Probably half a dozen.

You were advised that you were successful in your tender?---Correct.

30 Once you were advised you were successful in your tender, did you find out who was going to be the point of contact within the Department?---Yeah, we got a letter of award from Anthony Andjic saying we were successful with the project and one of the paragraphs on the bottom of the letter said that, is it Shadi that person that's – I can't remember the, his proper name – he was from Triton Group was going to be our point of contact and he would make contact with us to arrange a start-up meeting and – there was a couple of other words – and move forward on the project, something like that.

Now, did he contact you?---He didn't contact me, no.

Did he contact the company?---I believe he did. Well, he must have. I know a meeting was arranged with our project manager at the time and, and then they met on site was my understanding. I'm not 100 per cent sure of that but I, I know they did meet Anthony and the project got under way.

40 When you say you met Anthony, did they meet Mr Chacra as well?---Not 100 per cent sure of that but just from an email I've read only recently I do believe they may have met him on site.

All right. Who was your project manager at the time?---Adrian Moeskops.

And is that M-o-e-s-k-o-p-s?---Yes.



Okay. Did Adrian keep in contact with you with what was happening with the project?---Yes, he did.

Was it something you took a particular interest in because it was the first courthouse that you'd done?---I take an interest in all my projects. No more particular than any other.

Did Adrian talk to you about the interaction that he had with Mr Chacra?  
---No.

10

Did he tell you whether or not he was in regular contact with Mr Chacra?  
---No, he didn't. He did tell me that he's been advised by Anthony that he'll be just dealing with Anthony now on this project and I believe that was in the early stages of that project.

When he told you that, did you say anything about that?---No.

It didn't worry you one way or the other?---It's not unusual that personnel or representatives of projects change during the course of the project.

20

Do you know how much contact your project manager or your company had then with Mr Chacra?---I am advised there was three emails from Mr Chakra.

Do you know how often he went onto the building site?---I don't believe it was often at all.

When work was done by your company you obviously produced invoices?  
---Correct.

30

Were they ever looked over by Mr Chacra as far as you're aware?---No. My understanding is they weren't sent to Mr Chacra they were sent to Anthony in the form of a progress claim.

Did Mr Andjic come out to the building site at all do you know?---I believe he did, yes.

How do you say you believe he did?---I know there were, I know there were inspections and that did generate some additional works on the projects, variations.

40

Right?---And they were instigated by those site walks.

Right. And how did you find out that there were going to be extra work and instigated by the site walks?---By my project manager advising in our project meetings that there were variations and they were being priced and submitted in accordance with the contract.

When there are variations what do you do about that?---We formally submit them, give them a number, a description of the works and value of the works associated with that variation and submit them and wait for approval.

Now, ultimately the work finished?---Correct.

Was there a site inspection to determine that the final work had been done?  
---Yes.

10 And who did that site inspection?---Richard Hemsworth.

All right. Did you see Mr Chacra at that site inspection at all?---No.

Did you know who Mr Hemsworth was at that stage?---I understood Richard had taken over from Anthony Andjic on the project.

Now you've done other Government projects including for example Manly Courthouse?---Correct.

20 You had an external project manager for Manly Courthouse?---Correct.

And that was David Goldman?---It was.

During the course of that project how much communication did you have with that external project manager?---Our project manager was in regular contact with MACE. There was a earlier project manager than David Goldman actually, it was Joe Toohey but there was a staff change. There was regular project meetings or site meetings, the close out of the project was done with MACE and also the financial close was also undertaken.

30 Is that more in accordance with what you saw as a project manager role?  
---Correct.

How would that compare to how Mr Chacra was dealing with his project management role over Camden Picton?---Mace was there from the start to the finish of the project. Mr Chacra on Camden and Picton was only there in the very early stages and as I said before by a few emails and then Anthony advised he was taking over.

40 You've had no doubt some significant experience in project managing your own work?---Correct.

Aware of the sort of time it takes to do so?---Yes.

If I was to tell you that Mr Chacra or the Triton Group got paid \$65,000 for their project management of Camden and Picton project what would you think about that sum?---Extremely over the top.

If you were asked to go through projects that you had done and actually personally done how difficult would it be to remember what particular projects you'd done?---I would remember all the projects I've done.

When you submit an invoice do you just submit a final total or do you do something else?---No, it's – again, it's – sometimes your contracts determine how to submit or what information is needed in an invoice but Camden and Picton would have been a progress claim so per trade per site, how much percentage complete each month of all those trades, that would then calculate across a value and then we'd claim that value and then in it would normally be certified by the client and then we'd raise a tax invoice.

Subcontractors for example, carpenters, how do you go about working out what you're going to pay them?---As our subcontractors?

Yeah?---Normally we let lump sum packages to those trades but sometimes those – carpentry is one trade that is a lot, well, commonly done on an hourly rate so it would be market rate that we accept for a carpenter which would, you know, this time of that would have been around 50, 55 an hour and yeah, we make sure we employ people within the market range and have the experience to do the project.

How do you go about ensuring that you know what sort of materials are going to cost and what labour is going to cost?---We would take our own measure off, if we were buying materials we would take our own measure off the drawings of what materials were required, get those quoted and then we'd know what the material cost is and then we've an estimate how long it would take the project to be done by a carpenter so we'd, again trying to do our work within our budgets.

Mr Moeskops who was doing the project management for that particular project, how long had he been working with you?---I think he'd been working with us at around 12 months at that time. Hang, hang on.

Do you know what his qualification – I'm sorry, I didn't mean - - -?---Hang on. Yeah, it was around 12 months.

And did you know what his qualifications were?---His qualifications were that he'd worked in similar roles in that, in the industry. He was a carpenter joiner by trade and he had done the majority of his construction management degree.

And when you say worked in similar roles in the industry over what sort of period of time?---Ten years, 10 plus.

All right. What would you expect from a project manager and their ability to be able to manage in terms of finances the contract?---They, they, their main obligation is to build the project in accordance with the contract

documents so meet the scope of the contract and then the other aim is to build it in accordance with our budgets we'd set at estimating time. So ultimately we make a profit at the end of the project.

All right. Thank you very much for Mr Minister?---That's it?

You might just wait there just for a moment just to see if anyone else has some questions?---Sure.

10 THE COMMISSIONER: Can I just ask you, Mr Richardson. Obviously the larger the project the larger the role for the project manager?---Correct.

I mean in the industry where you're undertaking these large construction projects is there, is there generally a correlation between the size of the project and the proportion of the value of the project that is attributable to project management?---Yes.

20 And what would that percentage be, roughly?---Projects – I recall this contract value being close to \$400,000. We would expect a project manager to be able to do three of those projects of that similar size at one time.

So you'd expect them to be able to - - -?---Manage three projects.

To manage three projects each worth about \$400,000?---Yes, yes.

And what – but what percentage of that project, say that it was worth \$400,000 would you expect to be attributable to project management - - -?--  
-Project management fees?

30 Yeah?---Well, um, of that 400,000 probably within our estimate there would be four to five weeks allocated for the project management time if the project was running for around say 15 weeks, for 12 weeks.

So roughly - - -?---So what did I say, four or five - - -

Roughly a quarter?---Around – only probably about \$20,000 of that 400 would be applicable to the project management, project manager cost like within our business.

40 Right. And that, that rough proportion would hold true, would it, depending on how big the project was? In other words, what I'm trying to get at is your project manager if he was, if he was in charge of project managing a large construction that your firm was running, you would, you would have an expectation that his costs which of course would be absorbed within your entire costs would run at a percentage of the, of the entire value of the project or is that not a constant?---That's not a constant, no.

All right?---Yeah.

That's all right I was just wondering?---Okay.

Does anyone have any questions of Mr Richardson?

MR AYACHE: Yes, Commissioner.

THE COMMISSIONER: Yes.

10 MR AYACHE: Sir, I'm the solicitor for Mr Chacra. I've just got a few questions to ask in relation to your dealings with the Department of Justice. When you would be provided an opportunity to tender on works, you would be provided with a scope of works that the Department was looking for you to tender on. Is that correct?---Correct.

And if I was to use the example that the scope of works contained items one through to five, could you, in your tender exclude item number three and so that you were effectively tendering on items – tendering on four out of the five items?---You would have to clarify that you're not pricing item three.

20

Yes. So you could exclude – you could have it as an exclusion on your tender?---You could have it as an exclusion.

Yes. And if ultimately the Department accepted the tender on that basis you would then proceed to prepare yourself to do the works items, four out of those five items. Correct?---Correct.

And if while you were on site the Department renewed its request for you to do item number three, to keep the same, using the same example. At that point in time you could agree to do that item but you would charge what is often called in the industry a variation. Correct?---You would issue a variation to the client.

30

Yes?---And for further instruction or approval.

MR AYACHE: So the scope of works that you are invited to tender on isn't necessarily always the scope of works that finds its way into the contract?---Very unusual if it's not.

40 Well, I've just run you through an example where you could have an exclusion?---It rarely happens.

Right. But I'm saying it can happen?---It can happen.

Yes. Okay. The – you were asked some questions about project management. Have you ever performed project management services for the Department of Justice?---No.

All right. Do you know what is involved in acting as a project manager for the Department of Justice?---Not necessarily for the Department of Justice but I'd have a pretty good idea what they do - - -

Right?--- - - - for other clients.

10 Do you know what is involved by way of document preparation in acting as a project manager for a Department of Justice job?---I would have a fair idea based on the documentation that I have seen prepared by the Department.

When you say you would have a fair idea based on the documents you have seen - - -?---Yeah.

- - - do you know what the documents you haven't seen are?---No.

20 Right. So documents that are prepared by a project manager and sent to the Department which are not ultimately disclosed to you as a builder you have no knowledge of?---No.

And how voluminous those documents are or how minimal those documents are – excuse me – you, you don't know?---I don't know.

Right. And what flows from that is you don't know how much time is involved in preparing those documents?---Not 100 per cent, no.

Right. Well, if you don't know what the documents are - - -?---How could I know.

30 Exactly. And accordingly when you expressed an opinion about a certain amount of money, I think the question was 65,000 being too much money for project management - - -

THE COMMISSIONER: No, it was for project management in relation to the Picton job. It was made referable to the Picton job.

MR AYACHE: Yes. Project management referable to the Picton job.

40 MR BRADY: Camden/Picton.

MR AYACHE: Camden. Sorry. Camden job - - -?---Ah hmm.

THE COMMISSIONER: It was both but let's not quibble. We know what we're talking about.

MR AYACHE: Okay. You expressed an opinion that it was extremely over the top?---Correct.

But based on your evidence that you've just given you've expressed that opinion not knowing what is actually involved in the project management of those Picton/Camden jobs?---No, but I - - -

MR BRADY: I object to - - -

THE WITNESS: I am in the business of construction.

MR AYACHE: Yes?---And a \$65,000 project management fee on a  
10 \$400,000 contract - - -

Ah hmm?--- - - - will always with me remain over the top.

Right. And that's based on your experience in private industry?---Yes, and doing - we have done a significant amount of Government work.

Yes. And it's also an opinion you express not knowing the scope of works for the project manager for the Camden and Picton jobs?---I know what they're - like they are preparing tender package and probably around 20  
20 drawings for us to price on that Camden/Picton job.

Ah hmm?---And I think any professional in the industry would think \$65,000 to prepare a tender package of a job that size is excessive.

All right. So you're basing that - your opinion based on some - - -?---On market industry, the industry.

If I can just finish my question. You're basing your opinion of extremely over the top based on the impression that you have a project manager or the  
30 hard yards in project management is the preparation of the tender documents and some drawings?---But the consultants are doing the design. The project management is collating and pulling that together.

Yes. And you say that's, that's, that's the guts of project management and, and that's why you expressed an opinion that it's extremely over the top?  
---Correct.

All right. The Commissioner was asking you for some estimates as to what you would expect to allow project management in terms of proportions with  
40 respect to the cost of the overall jobs. I think you gave some evidence that when you estimate a job you allow four to five weeks out of the 15 weeks for a project manager. Is that correct?---Correct.

Would it be fair to say that when you're preparing an estimate, and you give the evidence of preparing an estimate, you're preparing an estimate for building works. Correct?---Correct.

Right. So the allowance you're making is a building – a cost to deliver that building service. Correct?---To deliver the scope of works in the - - -

The scope of works, yes?--- - - - in the contract.

So the project management that you are allowing for is your internal project management of your works. Correct?---Correct.

10 Right. Not project management by an external project manager?---That's right.

Right. So the proportions that you, and the figures that you indicated to the Commissioner were in light of internal project management within your organisation. Correct?---Correct.

Right. You were asked whether you had a knowledge of how many emails Mr Chacra had sent in relation to those jobs. I think your answer was "I am told three emails"?---Correct.

20 Right. You don't have a direct knowledge of how many emails were sent? ---I asked a staff member that question - - -

Yes?--- - - - and I was told three.

Right. And a similar questions was asked however in relation to site meetings and the question was whether you knew how many site meetings Mr Chacra attended and again, not verbatim but I believe your answer was "I believe he didn't go to very many"?---Correct.

30 Again, was that based on information provided to you by a staff member - - -?---Correct.

- - - or your direct knowledge?---By a staff member.

Right. Is it the case – sorry, I withdraw that. Have you in the past in dealings with the Department of Justice tendered on a fixed price contract basis?---Yes.

40 Right. And in those circumstances are you ever asked to account for how many hours you would spend on a job?---No.

Are you ever asked to account for how much the material cost?---No.

Are you ever asked to account for how much a particular subcontractor cost you?

THE COMMISSIONER: Can I ask you to clarify what you mean by the term "asked to account"?



MR AYACHE: Yes, Commissioner. It's appropriate. When I say asked to account, does the Department ever ask you to tell them or provide them with supporting information or evidence as to how many hours a particular task took you?---In a variation, yes.

Right?---When it is a variation.

10 Yes, but not insofar as the fixed price portion of the contract is concerned?  
---The – no. The fixed price portion of the contract is a lump sum value - - -

Yes?--- - - - normally supported by a trade break down - - -

Yes?---- - - of all the amounts per trade - - -

Right?--- - - - that equal that total lump sum.

20 And then there would be an agreement as to how that fixed price would be paid, whether it be monthly, quarterly, bi-annually or once annually.  
Correct?---Yes.

Right. And you would simply render an invoice according to whatever that agreement was between you and the Government and you would be paid on that invoice?---Yeah. The payments are made or claimed in accordance with the contract.

30 Right. And as you said, the only time you would need to account or provide details or supporting evidence for charging over and above a fixed price lump sum would be in the case of a variation?---Correct.

Right. And just so that we're all clear a variation is a departure from the agreed scope of works, correct?---Correct.

Which may include bringing back in an exclusion?---Could do.

Or just doing something totally different because it comes up while you're on a site?---Yes, but normally in general in relation to the scope of works you're undertaking on the project.

40 Right. Now one thing that hasn't been explored is we've focussed on the scope of works in the contract, you mentioned that tender packs are prepared by the project manager?---I didn't say tender packs.  
Did you say when I was asking you about how a project manager's costs or how you estimated what the costs involved in project managing would be you mentioned preparation of I think tender packs?---We'd, we'd prepare an estimate.

Not you, I'm talking about the external project manager?---Sorry, the external project – yeah.

Yes?---Sorry, the external project manager would put together a tender package.

Tender package, yes?---Yeah, yeah, got you.

10 The tender package comprises of plans?---Correct.

And a scope of works for that particular trade, correct?---Trades.

Trades?---If it, if that - - -

If there's more than one?---If that's what the tender package is, yeah.

20 Yes. Can a variation arise because the tender pack prepared by the external project manager differs from the scope of works that was agreed to in the contract?---No.

Okay. And can a variation arise because whilst performing the works you need to depart from what you were told to do in the tender pack or what your subcontractor was told to do in the tender pack?---That can happen.

Yes. So to appreciate whether – sorry, I withdraw that. So if you were properly look to audit a variation you would not only need to refer to the scope of works contained within the contract you would also need to look at any of the departures from the tender packs?---Yes.

30 Okay. And is there any other circumstance that a variation can arise at other than those two circumstances?---Site conditions.

Site conditions?---You may find asbestos on the project that you weren't asked in the scope of works to remove and you've found that product during the course of your works, that would in most cases generate a variation.

Okay. And is it unusual for those variations to reach quite high amounts?---Can you ask that again please, sorry?

40 It is unusual for – sorry, I'll withdraw that, I'll approach the question this way. When you compare a variation to a contract sum is it unusual for the variation to be a large portion of the contract sum?---No, they can be.

They can be, yeah, right. And can they reach what, up to 50 per cent, 100 per cent?---They can, they can reach reasonable percentages of what the original contract value is.

Right. So the contract value could well double?---It could, yeah.

Okay. Nothing further, Commissioner.

THE COMMISSIONER: Any other questions of Mr Richardson?

MR OATES: Yes, I have - - -

THE COMMISSIONER: Yes, Mr Oates.

10 MR OATES: - - - some, Commissioner. Will you excuse me a moment while I just have a quick work to Counsel Assisting?

THE COMMISSIONER: Yes, certainly.

MR BRADY: Excuse me just from the bar table, Commissioner.

THE COMMISSIONER: Mmm.

20 MR BRADY: Excuse me, Commissioner.

MR OATES: Mr Richardson, my name is Oates and I represent Mr Andjic. Mr Moeskops, is that his how you spell his name, pronounce his name?--- Moeskops.

Moeskops, I beg your pardon. He no longer works for your organisation? ---Correct.

Do you know where he is?---I believe he's at Built.

30 That's another construction company?---Yes.

In Sydney?---Yes.

Do you ever see him?---No.

Do you know where Built operates from?---In the city.

In the city are they?---Yeah, that's their head office.

40 So he'd be reasonably accessible if someone was to ring Built we assume? ---Yes.

This project at Camden Picton was in early 2013, yes?---Yeah, well, the tender closed March '13.

Yes. When did you have the conversation with Mr Moeskops about the call from Mr Andjic?---I don't exactly – certainly early stages of the project,

there was still a lot to be done and if I was – if you're asking my opinion I would have thought within the first month.

Did you just have a conversation with him or - - -?---Yes.

Yes. Did you see a note that he'd made by any chance of this conversation?  
---I haven't, I haven't looked for it.

You don't know whether a note exists?---No, I don't.

10

Did you make a note of your conversation with Mr Moeskops?---No.

Do you know a lady or ever heard of a lady named Kerrie Kent?---No, no, I don't. It doesn't ring a bell.

No, thank you. Are you aware that within the Department of Justice on that project anyway Kerrie Kent was the designated project manager for the Department?

20 MR BRADY: I object to that.

THE COMMISSIONER: I don't know that she was, was she? She attended a site meeting but she wasn't the designated project manager.

MR BRADY: And it's more also not only whether she was but the timing and it's - - -

MR OATES: I just picked it up in the – I'm sorry.

30 MR BRADY: Sorry, it's just an unfair question bearing in mind the timing of when Ms Kent actually left the Department bearing in mind when this company became involved.

MR OATES: I just picked it up from the exhibit, Commissioner. It's page 4 of 370, I won't go back to it because I'll lose my place.

THE COMMISSIONER: No, it's all right.

40 MR OATES: But the document states "Name of project manager Kerrie Kent", that's where I got it from.

THE COMMISSIONER: Yes, but I think as Counsel Assisting says its referable to a particular point in time.

MR OATES: I know, that's the whole thrust of my question, I agree.

THE COMMISSIONER: All right.

MR OATES: Do you know that at some stage in the early stage of that project that a lady named Kerrie Kent was designated by the Department of Justice as the internal project manager, their, their contact?---Not aware of that.

So you don't know whether the phone call that you heard of from Mr Moeskops about which you're giving second-hand evidence today was actually along these lines, Kerrie Kent's gone, you'll now be dealing with me within the Department?---I'm not aware of that.

10

Well, Mr Moeskops would be the only one who could really shed any light upon that wouldn't he?---Correct.

And my client?---Correct.

When were you first asked to recall that conversation, sir?---When ICAC made contact with me.

20

Yes. Do you know when that was?---Probably around five weeks ago, maybe six, there'd be a record of when – by email when the first communication started.

I have no trouble accepting what you're saying, thank you?---Yeah, that's all right.

How many projects do you think your company's been involved in since Camden Picton?---Probably 120.

30

How many phone calls with staff or conversations with staff in relation to those projects, I'm not being silly but I imagine thousands?---I meet formally with all our project managers on a monthly basis and I'm talking to our project managers on a very regular basis.

Nothing further, Commissioner.

Thank you, Mr Richardson?---Thank you.

40

THE COMMISSIONER: Any further questions of Mr Richardson? Anything arising, Mr Brady?

Yes, thank you, if I can.

You were being asked questions about auditing a variation and in particular whether or not you'd need to have auditing?---Auditing.

The question was to order a variation I would need to have knowledge of what the scope of works was and what had changed?---Correct.

Auditing a variation, would that also require actually having set out the work that needed to be done for the variation?---Yes.

Including the labour component?---Yes.

Including the material components?---Yes.

And that would be something that would be set out with some clarity, bearing in mind it's a variation from initial contract?---Correct.

10

And it would be important before proceeding with that variation basically to get approval on that variation?---Correct.

And to get approval on that variation one would need to accurately set out the cost of that variation?---Correct.

And how that cost is then broken down?---Correct.

20 You were also being asked questions about the fixed priced work?---Ah  
hmm.

So that if you got a contract for a fixed price whether or not you would then need to set out in your tax invoice the entirety of the work done. If you were to get a fixed price contract but that project didn't go ahead, do you think you'd just be entitled to claim the entirety of the fixed price contract whether you did the work or not?---No.

30 Your being asked a lot of questions about the opinion you expressed about \$65,000 being I think the term was way too much. Like excessive. I can't remember the exact - - -?---Excessively over the top.

Excessively over the top?---Something like that.

Obviously one of the jobs that a project manager is to monitor how the building is going?---Correct.

And to liaise with the builders?---Correct.

40 And on a fairly regular basis one would think?---Yes.

And then to check against what is being claimed and what has actually been performed?---Yes.

And make their own assessment about the works that have been performed and the quality to which they've been performed?---Yes.

Did you hear from Mr Moeskops of Mr Chacra doing any of those things? ---Not aware of that happening.

Did that assist you when you were coming to the conclusion that what has been claimed by way of \$65,000 was excessively over the top?---Yes.

Yes, thank you, Commissioner.

THE COMMISSIONER: Yes. Thank you, Mr Richardson. You may step down, you're excused?---Thanks.

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**THE WITNESS EXCUSED**

**[3.23pm]**

MR MICHAEL: May I be excused, Commissioner?

THE COMMISSIONER: Yes, certainly. Thank you, Mr, Michael, yes. Yes, Mr Brady.

MR BRADY: Yes. Would the Commission excuse me for just one  
20 moment?

THE COMMISSIONER: Yes.

MR OATES: Thank you, Commissioner. Commissioner, I understand Mr Brady intends to call my client next and I have an application that that not take place until Monday morning as I heard your Honour say earlier it's been a big day and a big week and my client feels he'd be able to acquit himself a little better if he's fresh rather than this afternoon at the end of the week's evidence.

30

THE COMMISSIONER: Well, I don't suppose half an hour is going to make a great deal of difference, is it, Mr Brady?

MR BRADY: I'm entirely in your hands, Commissioner.

THE COMMISSIONER: All right. Well can I just say this. I know, I know that the adjournments that we've had and the time we've lost this week is largely the Commission's problem. It hasn't been caused by any of the practitioners but I wouldn't like people to think that we're not anxious to  
40 conclude this inquiry in a timely fashion, Mr Oates so I'm content to adjourn now and resume on Monday morning.

MR OATES: It's an unusual application, Commissioner, I accept that but my client's grateful for the indulgence.

THE COMMISSIONER: All right. All right. We'll adjourn till 10.00am, Monday morning. Yes, yes, Mr Ayache.

MR AYACHE: Commissioner, I should just say, not that it should affect the proceedings in any way shape or form. I have a hearing starting tomorrow which may flow over to Monday so it's no disrespect meant to the Commission.

THE COMMISSIONER: No, no. That's all right.

MR AYACHE: Because I did, I did want to reserve my position with Mr Chacra till Monday. I anticipate - - -

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THE COMMISSIONER: Well I think you can safely say that we'll still be here on Tuesday. All right. Yes, Mr Silver.

MR SILVER: Commissioner, we were initially I think everyone was informed and thought that this process was going to take five to seven days.

THE COMMISSIONER: I know. It doesn't look like that now.

MR SILVER: What will the plans be if it extends more than seven days?

20

THE COMMISSIONER: Well as things presently stand the only time that we anticipate losing next week is Wednesday afternoon because of prior commitments on the part of Commission staff. So are you in some personal difficulty Mr Silver?

MR SILVER: Well having, yes.

THE COMMISSIONER: Yes.

30 MR SILVER: After seven days I've got back to back bookings for quite a while, Commissioner.

THE COMMISSIONER: Yes. When, when is that going to be a problem for you?

MR SILVER: Wednesday and Thursday and Friday and some of the next week.

40 THE COMMISSIONER: All right. You mean Wednesday, Thursday, Friday next week?

MR SILVER: Yes. I understand that other people have, possibly they have the same difficulty I'm not sure.

THE COMMISSIONER: Well can I ask, can I ask the representatives to liaise with Mr Collins and Counsel Assisting in terms of commitments that they have and then perhaps some schedule and the witnesses can accommodate those problems. But at this stage we'll, we'll do the best we



can on Monday. If that means perhaps starting at 9.30 or, and or finishing at 4.30, we'll see what we can do. All right.

MR SILVER: Thank you very much for your indulgence.

THE COMMISSIONER: Thank you. I'll adjourn.

**AT 3.27PM THE MATTER WAS ADJOURNED ACCORDINGLY**

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**[3.27PM]**