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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION ELGAR

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 10 NOVEMBER, 2015

AT 10.03AM

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

THE COMMISSIONER: Yes, Mr Hunt.

MR HUNT: We'll proceed with the final part of evidence-in-chief from the current witness.

10 THE COMMISSIONER: Yes. Yes. I'll just remind Mr Shanker that he's still obligated to tell the truth pursuant to the affirmation and the section 38 order still applies.

MR HUNT: Thank you.

THE COMMISSIONER: Yes?---Yes, Commissioner.

MR HUNT: Mr Shanker, you gave evidence yesterday about conversations that you had with Balu where he encouraged you not only to lie generally but to create a fictitious account of what sort of work your wife Pooja was
20 allegedly doing in her employment with Canberra Solutions. Do you remember that evidence?---Yes, I do.

Did one of the conversations on that topic happen at the Lane Cove premises of Balu?---That's correct.

When you had a conversation with Balu at the Lane Cove premises about that topic I assume it was later in time than that meeting that first happened -
- -?---That's right.

30 - - - in a car at North Sydney?---That's right.

And when you went to the Lane Cove premises was it just yourself and Balu in the conversation?---It was just me and Balu in conversation.

Did you know whether anyone else was in the premises?---Yes.

How did you know somebody else was in the premises?---Because I saw.

40 And was that Sonata?---That's right.

All right. And did you see her when you first arrived before you and Balu got down to some discussions?---No. So the door was opened by Balu.

All right. So during the course of your conversation with Balu about the topic of if you needed to misleading investigators from ICAC, did Balu - - -
?---Sorry.

- - - did Balu talk to you continually about that or did the conversation seem to be interrupted from time to time?---What do you mean by interrupted?

Did he go and talk to Sonata from time to time?---Once or twice, yes.

And at what point of the conversation – was that at a point of the conversation where you were suggesting there were difficulties with the version of employment that he was suggesting you would supply to investigators if you needed to?---Can you repeat that last part.

10

All right. Was the point at which the conversation was interrupted - - -? ---Ah hmm.

- - - when you were taking issue with suggestions that Balu had about what might have been parts of Pooja’s fictitious job?---That’s correct.

And when you raised objections did it seem to you that Balu would go and speak to Sonata about that?---Sir, I do remember that at least two times he did so. It could be more also.

20

And could you hear the discussion between Balu and Sonata?---No.

In the context of the way the conversation was happening between you and Balu, did Balu return to the conversation with different ideas?---Not so much as different ideas but he said yes, it should hold water.

30

All right. Well, put it in your own words the way that what you saw was happening between your conversations with Balu and Balu going to speak to Sonata, what, what was your impression of what was underway?---Oh, my impression was the questions that I was raised, seemed genuine and, and he would just, he went over there to consult with her to see whether it was the right way to do it.

So when you’re saying the questions you raised seemed genuine what you were saying was within this scheme you were pointing out problems with the account that you were being asked to give, is that right?---Yes, problems, that’s correct.

40

Problems because of Pooja’s qualifications compared to what you were being asked to say she was doing for Canberra Solutions?---True and plus my unhappiness around the whole contract, also.

And then Balu would talk to Sonata and come back and say no, it all should be all right?---Yeah.

And did you get the impression that he was getting advice from Sonata?--- Not more so advice but more so as a consultation when an agreement

happened between them, it's hard for me to say what they both spoke about so I'm not in a position to say.

All right. I know you didn't hear the conversation but did you at least get the impression that Balu was checking in with Sonata about the progress of the conversation with you?---Yes.

Yea, that's the evidence-in-chief, Commissioner.

10 THE COMMISSIONER: Thank you. Now, Mr Dennis, I think. Yes.

MR DENNIS: Yes, thank you, Commissioner.

Sir, you graduated from the Australian Graduate School of Management is that right?---That's correct.

And you received an MBA from that organisation?---That's right.

20 And would you say that that particular institution is very highly regarded?
---It's number 1 in Australia.

Yes, thank you. And indeed, you did an exchange to an institution known as Kellogg?---That's right.

And where is that located?---USA.

Where in the USA?---Chicago.

30 And is Kellogg considered one of the leading institutions for that field of
study in the United States?---That's right.

Indeed, it's regarded as one of the leading institutions in the world for that
type of qualification?---That's right.

All right. Did you regard yourself as highly qualified for the role at Sydney
University given your academic qualifications?---Yes, I do.

40 All right. So you would, you would say that an MBA from the Australian
Graduate School of Management that included a period of exchange with
Kellogg is, would be academic qualifications highly regarded in your field?
---That's right.

Yes. Sir, do you know a person called Mark Pigot at the time that you were
working at Sydney University?---Yes, he was a director at the University of
Sydney.

All right. And did he have any direct role with you in any of your projects?
---Ah, two of them, yes.

All right. And what was his role?---So he was on the board for web security program of work and he was the project sponsor for a private Cloud initiative.

All right. And could you just tell the Commissioner what a project sponsor is?---Someone who is leading or who envisioned that we should implement this initiative in our company and he's the one who draws out the budget, he's the one who has the total responsibility and we are reporting to him.

10

All right. So during this Cloud project you were answerable to him, is that correct?---That's right.

All right. And that was your last project with University of Sydney, wasn't it?---No. That was not my last project.

All right. It was one of your projects?---It was one of my projects.

20

All right. And did he have - was he a project sponsor of any other project that you performed?---Ah, no. He was one of the Board member for the web security program work. I'm not sure because that project started before I joined the organisation. I'm not sure whether he was at any point of time the project sponsor of that one.

All right. And that's the project you picked up when you started, is that right?---Yes.

30

So you had, you performed two projects whilst you were at Sydney University, is that right?---I performed four projects.

All right. And how many of the four did Mark Pigot have a role in either as a project sponsor or Board member or any other role?---Two.

All right. And how did you get along with Mark Pigot?---On web security program very nicely. Private Cloud initiative I would say good.

40

All right. He wasn't critical of you at any stage, critical of your work?---I think he was critical of my work when, of the web security, not the web security but Private Cloud initiative a bit later on.

All right. So it was later in your, late in your employment that he became critical of you, is that right?---Hard to say. When you compare the timeline of my stay at the University of Sydney I would say around September or October.

And how long was that before you left Sydney University?---I left in December.

All right. Do you recall an occasion when Mr Meeth had a conversation with you and went through a list of concerns about your performance?---We had a conversation about a particular Board meeting that went sour so I kind of, I had a verbal argument with the security manager in the Board meeting where all the directors and CIO was present.

10 All right. And did things go, did things go sour because there was some criticism of your work?---I don't know what – so things went sour because that particular gentleman was the security manager, would never turn up for the meetings, he wouldn't respond to emails and that was kind of delaying the project.

All right. Was Mark Pigot - would you say that at any time he was perhaps unduly critical of your work?---Not, not that I know of. I mean my interactions were very limited with him and I never got such kind of feedback from him directly.

20 All right. Did he have a reputation for being unduly harsh or unfair in his dealings with people?---I'm sorry, I didn't got that one?

Sorry?---I didn't got the question.

All right. Did he – did Mr Pigot have a reputation for being unduly harsh or unfair with people?---Not – I never discussed with anyone. He seemed to be a good person.

All right. So if I said to you that he had a reputation as a bully would you say that's correct or you don't know or it's incorrect?---I don't know.

30 All right. What I want to suggest to you, sir, is that there was an occasion where you and Mr Meeth had a conversation and he went through a list or a range of concerns about your work performance and was trying to help you improve your work performance. What do you say to that?---Most probably, yes.

All right. And you say you had an exit interview. Do you recall who that was with?---Jason Meeth.

40 All right. And you say that nothing was said to you about your work performance at that point?---Not 100 per cent definitely because I was stressed because one, I don't recall totally, second, I felt stressed because I am – I was getting out of work but we spoke for 15, 20 minutes.

All right. And given the time that's elapsed you're now not able to say whether there was any discussion – you're not able to say 100 per cent whether there was any discussion of your work performance at that interview or not. Is that right?---That's right.

All right. Now, is it the case that you were terminated or simply that your contract was not renewed?---The wordings that I remember and I got the feeling that my contract was not renewed.

All right. When was your contract due to expire?---December of 2012.

All right. And you, you left University of Sydney in December, 2012?
---That's correct.

10 All right. So if it was the case that you simply, simply that your contract ran out – yes, I'll withdraw that. Can we just have a moment, Commissioner. Did Mr Meeth ever invite you to have a discussion with Mr Pigot about your work performance?---No.

All right. Yes, thank you, Commissioner.

THE COMMISSIONER: Any other questions of Mr Shanker? No.
Anything arising?

20 MR HUNT: Just, just a couple of issues. How long had you been unemployed before you got your contract with the University of Sydney?---Six months.

And the position was that at the point you would have about worked for any daily rate just to get yourself back in the workforce. Correct?---That's correct.

30 Do you agree that you were better at the work that you were required to do in your first project as opposed to the Cloud project?---Yes.

And there was in your mind a sounder basis to be critical of you in terms of the way that you conducted yourself when you were working on the Cloud project?---Yes.

In terms of your skillset particularly?---Yes.

40 In terms of that meeting where there were problems would you agree that you've characterised that as you blowing up at the meeting?---But that meeting was for web security program but it was not about - - -

Yeah, I know it's not a Cloud project but at that meeting would you agree that you've described yourself that you blew up at that meeting?---Oh it's – I wouldn't say blew up. It was that I presented the whole scenario to the Board and the security manager got defensive and I said (not transcribable) across to you so I - - -

MR HUNT: I think on analysis you agree that you overstepped the mark in terms of the strength of your communication about his poor performance?--- I could have communicated better.

Did Mr Pigot ever have any involvement in your recruitment?---No.

And whatever was discussed during the exit interview you were not left with the impression that your contract was being not further extended due to poor performance?---Can you please say it in a different - - -

10

All right. When you had your exit meeting with Mr Meeth you said yesterday that you hadn't appreciated that the reason your contract wasn't renewed was because of poor performance?---So - - -

Meeth didn't tell you we're not renewing your contract because of poor performance?---Not exactly, maybe if he inferred that way I didn't get it because like I mentioned just now that losing a job, you're under stress so – and it's a long time bac so I cannot exactly recall what (not transcribable) he used. He could have said something around performance or not, how it's said like you've said the question, I took three times to understand it so it could be.

20

Whatever the reason you accept that while you were a bit better at the private web job you weren't as good at the Cloud job, Cloud project that you were on at the end of your contract?---I was not on private Cloud at the end of my contract. At the end of my contract I was on PCI DSS project.

Yes. Nothing further, Commissioner. Thank you.

30

THE COMMISSIONER: Thank you, Mr Shanker, you can step down, you're excused. You may go, thank you?---Thank you, Commissioner.

THE WITNESS EXCUSED

[10.21am]

MR HUNT: Commissioner, might we just have a very short break before I call Mr McNulty - - -

40

THE COMMISSIONER: Yes.

MR HUNT: - - - is the next scheduled witness.

THE COMMISSIONER: Yes, all right. We'll just take five minutes. Thank you.

MR HUNT: Thank you.

SHORT ADJOURNMENT

[10.21am]

THE COMMISSIONER: Yes.

MR HUNT: I call Mr McNulty.

THE COMMISSIONER: Thank you.

10

MR HUNT: Sean McNulty. He'll take an oath on the Koran.

THE COMMISSIONER: Right. Do we have a Koran here? Just come forward, Mr McNulty.

MR McNULTY: Sure.

20

THE COMMISSIONER: Just take a seat, I just need to explain something to you. I don't know if you've been here on any previous occasion. I understand that you're not legally represented today?

MR McNULTY: Correct.

30

THE COMMISSIONER: Right. The Commission operates according to this procedure, you must truthfully answer all questions, you don't have the option of refusing to answer even if those answers should incriminate you in some form of wrongdoing. I'm not suggesting they will but I'm just explaining that that's the obligation upon you. Because you have that obligation you would normally be able to object to each and every question as its asked and in that way the objection would operate to preclude the use of your answers against you in civil or criminal proceedings but I can make an order under the Act which effective operates as a blanket objection so that you don't need to take that objection each time and in that way your answers can't be used against you in civil or criminal proceedings but there's an important exception and that is that your answers would nonetheless be able to be used against you if it should be found that you have lied or misled the Commission. Do you appreciate that?

40

MR McNULTY: I do.

THE COMMISSIONER: And would you like the section 38 order?

MR McNULTY: Yes, please.

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 NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

THE COMMISSIONER: Can we have Mr McNulty sworn on the Koran, thank you.

20

THE COMMISSIONER: Thank you. Just take a seat. Yes, Mr Hunt.

MR HUNT: Thank you.

Is your name Sean Edward McNulty?---It is.

10 And is your current occupation that of a procurement consultant?---Correct.

Where are you currently working, Mr McNulty?---At Transport for New South Wales.

And you gave a statement to this Commission in which you were doing your best to be truthful and accurate?---Correct.

In July, 2012 you were engaged to work at the University of Sydney. What was your role?---So initially because there were certain issues between the
20 ICT Department and the Procurement Department there was a lot of, a lot of projects weren't going to market on time, ICT weren't getting the support from Procurement so they basically brought in their own procurement person to basically address that, that gap.

All right. Did you – even if you didn't follow him in terms of exactly the same role, did your contract commence on or about the time that somebody Jovan Apostolovic stopped being on contract at the University?---I saw Jovan's name around the place but I didn't actually come into contact with him. However, in the early days of my contract I may well have crossed
30 paths. I'm not sure.

All right. Did you ever understand that Jovan worked with Jason Meeth in terms of Procurement contracts and recruiting and the like - - -?---Wherever
- - -

- - - before your time?---Wherever I saw Jovan's name it would be in association with Jason on similar documentation.

All right. Once you've started working you were working in the PMO
40 within the ICT. Is that right?---Not quite. So I sat just outside so I report in to David Wilbow who reported into Ange Morton and in to the CIO. Jason reported directly in to the CIO so the PMO was a separate – we worked in parallel so it was kind of matrix management if you like.

All right. So you didn't report directly to Meeth?---No, not at all.

But you worked closely with him from time to time?---Correct, yes.

Would you just explain to the Commissioner before you started to notice some matters that you took up with Mr Meeth what the nature of your involvement with him was?---So there would be a number of contingent workforce labour hires that Jason would need to engage in. There were project managers and BAs, program managers and the like who would be brought in through the C100 or at my time it became 0007. And so I would provide advice to him on the appropriate way to do things and he would follow his idea of it.

- 10 All right. What was your understanding in relation to the obligation on the University to use when you first started C100 companies?---Yeah. Apparently there had been a mandate from Bruce, the CIO, basically saying absolutely every engagement was to occur through C100 going forward.

And when you say Bruce you mean Mr Meikle?---Bruce Meikle, yeah.

And that's how we pronounce it even though it's spelt M-e-i-k-l-e it's Michael?---Yes.

- 20 All right. And did you understand anything of the reason for that pronouncement by Mr Meikle?---Yes. I was aware of the adverse findings of Citrus and the recommendations flowing down from that.

- And because of your particular bailiwick as being involved with Procurement you were particularly alert to that need for C100 companies to be mandated to be used in recruitment?---Yeah. So a lot of the early questions I received when I joined the University were around well, basically ways around the, the mandate. So we had a lot of existing projects and contractors who were in the middle of a race if you like and you don't
30 change the jockey halfway through the race and so there was – especially when contracts came to an end they could not be renewed if they weren't with contractors on C100. So there were an awful lot of people who were saying well, you know what we need to do. We'll find a way around. We can subcontract via existing C100 companies and that would be legitimate.

Let me understand that a little bit more. This is for – in relation to contractors who had already been retained by the University?---Correct, yeah.

- 40 Who were performing well?---(No Audible Reply).

You're nodding to that. Does that – well they were performing in a sufficient fashion that the University wanted to keep them retained on a further contract?---Yes.

And so the inquiries that you were getting at that point were about what is a permissible way to retain this contractor now even though they were

originally recruited without the benefit of a C100 company putting them forward?---Absolutely, yeah.

Did you ever have an inquiry about how to get around the C100 obligation in terms of recruiting new candidates for new contracts?---No.

10 Are you able to in terms of the first class of inquiry that you were getting characterise it as – in terms of getting around the C100 obligation was it your view that people in the University were trying to subvert that requirement or trying to find out how to comply with that obligation for a candidate who was originally contracted to a non C100 recruiter?---So project managers do tend to be focused on the outcome as opposed to the process. And the reason why they would come to me would be what can we do to optimise what we've got within the process? So I would provide advice on that basis. At no point did they – if anyone would have brought up bringing in someone new, outside with no reasonable justification as to why that person should be brought in, well first of all I would say no and then I would inform either David Wilbow or Ange Morton of, of this occurring.

20

And, and I gather that the reason why you would say no in that circumstance is because unless it involved something very rare like a candidate with a very particular skill set that couldn't legitimately be sourced through the normal competitive multiple C100 recruitment companies - - -?---That's right, yeah.

- - - that you would see trying to get around that as a subversion of the principle behind it, is that right?---Correct, yes.

30 And can we just go back to the first class for a minute. What kind of advice did you give project supervisors who wanted to novate or put existing contractors onto new contracts? How did you advise them?---So unless a contract had an option to extend when it expired, it's dead, there's no renewals, it's a brand new procurement process. The official line is you need to approach the market again. As you said in exceptional cases where there's a genuine justification then you could make a self-source argument and that would need to be approved by - - -

40 So may I ask you in terms of the official line are you saying that your advice to project managers in that first circumstance was, if a contract was coming to an end and so there was a new procurement process happening even if it was somebody who was at that time working satisfactorily on contract to the University that there was an obligation for that candidate to be put forward through a C100?---There was no obligation it was the commercial decision of the agencies as to who they put forward when they were approached when the market was approached. So we couldn't be in a position where we guided the market on who to provide. What occurred without my knowledge is another matter altogether.

All right. But what I'm trying to understand is when project managers were approaching you trying to get around the C100 obligation for contractors needing to be put forward for a new contract that you would say to them it can't be got around, they need to be proposed in a, in a compliant fashion?--
-That's right.

10 Did you then know what arrangements were made whether C1, the original recruitment agency for those candidates entered into arrangements with C100 recruiters to put those people forward again?--So just to give a little bit of context here, I only came across this as problems occurred. It was not in my original remit to even address the recruitment of contractors. However, this wasn't being taken by either Procurement or HR or anyone else for that matter, it was as you've probably realised from all, from testament already it was pretty much chaotic with no defined processes apart from some airy-fairy high level directions.

All right?--So I addressed them as I found them.

20 Putting to one side Meeth/Canberra Solutions problems that you came to know about - - -?--Yes.

- - - and we will come to them in a minute, how did other problems to do with this issue arise?--So there would be, other issues would include, we've had contractors around for 10 years plus. Okay. After two years contractors start accruing certain permanent employee rights which exposes the University to a lot of risk. We also had many occasions where project managers would say I've worked with this guy before, we need to make sure that he's involved in the process. We would get people who, yeah,
30 that's the sort of issue that I would say well, no, hold on, that's not the way it's done. Sorry, does that answer your question?

Yes. Can I ask you this, in your statement on the issue of using C100 companies generally you say "I expected that the C100 companies undertook some diligence regarding candidates to assess suitability for the role", what gave rise to that expectation?--That's, that's a common industry expectation. The agencies get paid a finder's fee and a margin for a reason so there are certain things that they need to be doing when they bring on contractors. Now we can, we can opt to do that but it's pretty much the
40 default that they will do that unless we tell them expressly otherwise.

All right. And did you understand that one of the reasons this was now University policy that there was a mandated process mandated compulsory process to use C100 contractors in competition with each other was because of the accreditation of those companies and therefore the things that the University could rely on in terms of the candidates that they put forward?

---I think that wasn't the decision behind the University's push to use it, I think the Citrus recommendations were what was behind it and presumably that was for those reasons.

That is you're presuming that the Citrus recommendation about using C100 recruiters would have had as one of its reasons that accreditation and quality process?---Absolutely, yeah.

10 All right. And operating properly is that your experience as a procurement consultant, that the C100 process or its successor, which is the - - -?---0007.

- - - 0007 process, does that, that is means in the normal course that candidates are put forward who've been vetted are fit for task, reference checks and the like?---Yes.

20 All right. How do you first come to have some concerns about some of the recruitment in relation to contractors that have been recruited by Jason Meeth?---I've had contractors refuse to sign new contracts until they got a pay rise for example. The way in which Sydney University treated contractors was very much as they would permanent staff so I had initial concerns from the very get-go that things weren't operating as they should in normal environments, normal Government environments.

30 And is that because in conventionally recruited contractors where there's been commercial – property commercial arrangements put in place that that kind of desire for a pay review doesn't come up, it's normally negotiated in a different way than you were hearing about it?---Absolutely. So when someone starts a contract to do a piece of work at the end of that it all finishes. There is no flow on from that. It's – unless there's an option in that original approach to market, if there are flow-on engagements you have not been fair to the market in the first instance so – and also it will be - - -

Can you say that in another way?---If you've got two - - -

In terms of this being fair to the market part, just - - -?---Okay. So if you've got a project - - -

40 - - - help me understand that?--- - - - that's going to last for two years but for whatever your own purposes you chop that up into three month engagements and you only get approval for say the first six months and you approach the market for six months even though you know that the project is almost certainly going to go on for two years. First of all, you are not going to get the best value for money outcome from the market. You've approached with only part of the requirement. For a two year engagement you're going to get better rates. The second point is, you have not given anyone in the market a chance to bid for that extended piece of work. You've given them a chance to bid for six months. Now, you're making a value-for-money decision on that six months rather than the two years.

So is a part of that that in these ICT contracts that an entity like the University would attract a better rate paid daily including C100 margin if the contract is across two years because of certainty both for the recruiter and the candidate?---Absolutely.

All right. And so letting six month contracts on pieces of work that are known to go longer represents a likely commercial disadvantage to the University?---Yes. Yes, indeed.

10

THE COMMISSIONER: Mr McNulty, can I just ask, do I take it that if the project is going to take two years but the contract is only six months that that is driven by some kind of budgetary cycle, in other words that the University makes a decision because of a budget extending over a particular period of time?---It does but when you approach the market and you, you are aware that you have budget for a certain period of that but you know the project is likely to go and those funds will be appropriated then you take out options to extend.

20 Right?---So the point of commitment by the delegate occurs just prior to the end of that six month engagement but equally the delegate will sign off on two year contracts if needs be.

All right.

MR HUNT: Was the conversation that you had with Lynette Morris who had been engaged through Michael Page the first time that you started to become aware of the issue of significant pay discrepancies, if I can use that expression, between what contractors were receiving and what was being
30 paid by the University?---That was the first time it became so pronounced. With a number of the previous contracts being transferred into subcontract arrangements with C100 suppliers occasionally you would find a bit of double dipping going on so, you know, I would watch for it but this was the very first time I'd come across something so large.

All right. Or extreme might be another word for it?---Yes.

40 That is, you're saying so large the discrepancy between what the contractor was actually getting and what the accounting showed, in this case Michael Page was getting?---Yeah. There's a big difference between two lots of 10 per cent and 125 per cent mark up.

All right. In terms of those other contracts, so we're not talking about Canberra Solutions/Meeth contracts at this stage, the ones where you – I gather you're saying that you came to know that there were some contractors who were being put forward as, by subcontractors to a C100 company - - -?---Yes.

- - - for roles but that was limited in your experience to people who had been retained on some basis or another already by the University?

---Existing contractors, yes.

10 And how in those cases did you become aware that there might be a margin of 10 per cent going to the C100 recruiter and another margin of 10 per cent going to the, the intermediary recruiter or subcontract recruiter?---Because we weren't formally requesting that subcontractor information at the time of contract I would often find out about these things anecdotally and that's when I would call the C100 company to one side and say why are you charging a 10 per cent margin on something where you should be providing an umbrella margin which is basically just to explain there's no finder's fee, it's just basically pay rolling an existing arrangement below it.

20 And, and in your experience either at the University or before or after what is the traditional fee that attaches to a C100 company that's providing a known umbrella service?---On the C100 I can't remember what the arrangement was to be perfectly honest. I know it was one or two per cent, it was very, very low.

30 And is your understanding the effect of it that it is the subcontract recruiter that's undertaking the, if you like, the due diligence about the candidate and the C100 company in that circumstance is in a, in a disclosed fashion simply handling the payroll aspects?---Mmm. So I would, yes, I mean I would expect the due diligence to be carried but I would also expect the C100 to ensure that the subcontractor had carried out that due diligence as well because we are still signing the contract with the C100, we're not signing with the subcontractor so therefore we need to be satisfied that they have, they are presenting the goods as we have required them.

40 All right. So even in that limited class where the, the University in fact has some knowledge of the contractor because it's been working with that person for a while, you would still expect that the C100 company acting in an umbrella role would if you like ensure that the subcontract recruiter was doing what the C100 company would normally do, that is checking references, vetting as it were the continued suitability of the candidate? ---Well, they carry the risk if they don't so they may or may not do that, however, you know, we have entered into a contract with them regardless of whether it's a pay rolling one or not that they will carry the risk that the contractor is who they say they are.

Once again, just giving our attention to that class at the moment rather than the Canberra Solutions candidates, that situation is immune to problems arising isn't it, that situation of C100 companies just being used almost like a post box, I just want your comment as to whether that in terms of potential for corrupt or partial behaviour that system of using the C100 hundred company simply as an umbrella agent if you like has vulnerabilities to it that create potential for problems and abuse don't they?---Absolutely.

And what are those, can you just say what you think those are from your perspective?---Oh, well, this is – because there was no process in place, so normally one would request the, the whole link of the chain, so there might well be the person, they might be coming from a pty company themselves for whatever their own reasons, that company might go to a subcontractor and the subcontractor goes to a C100 and then to the University, so that’s the whole of the chain. If the University was doing proper due diligence it would have a process whereby the whole chain would be identified and you’d be able to see where the cash flowed. The way it was when I inherited the process, there was no such visibility and so it was completely vulnerable.

So what sorts of things do you say should happen to expose the reality of the links in a chain for a contractor like the University, I mean a retainer like the University?---In that situation that I would expect to see full visibility. So when you approach the market you would make sure that you have said “I wish to see all of the subcontractor arrangements and that they would be open to audit at any time”.

And that would for instance stop a middleman a recruitment company in the middle taking something like 50 per cent share of the contractors either what the contractor is worth or what the University is paying?---So it would protect to an certain extent. However, one can’t completely protect from double up contracts. So for example a contractor may well sign something but he may well have a secondary contract with down the stream subcontractors. You can’t protect against that.

Is it a reasonable prospect when you first started to look at this issue because of what Lynette Morris told you that you were first concerned that for some reason the C100 company, that’s Michael Page was taking a much bigger margin than one then would be regular or one would anticipate?---Yes.

Is it correct to say that as soon as you realised that there was a subcontracting recruitment company between say that contractor and in that instance the C100 company of Michael Page that you started to realise that there was maybe a very different agency involved in terms of the proportion of funds that were not accounted for?---So in the case of Lyn, yeah. Look, I heard the name Canberra Solutions mentioned and she, Lyn told me that she’d been contracting through them - - -

And I’ll just pause there for a moment. I want you to go on in a minute. But that was the first time that you’d ever heard the name of Canberra Solutions, correct?---Yes, yes.

All right. Yes, go on?---So my first instinct was that Michael Page, the agency in question were trying it on. So I basically called a meeting with

them around the middle of June and I believe that Niall and I think it was Ashley from Michael Page attended and we talked about it and I said “What the hell is going on here”? And I showed them the, the arrangement what Lyn would be getting according to the contract and then I told them “She’s getting absolutely no way this can you please explain”? From memory they said “Look, we’ll go off and find out”, because there was someone else in Michael Page who had had the relationship with Jason so they’d go and find out. Later on that day they came back and informed me that there was this middle subcontractor, Canberra Solutions and that there was an arrangement
10 between them and Lyn and they couldn’t comment on a third party arrangement, which is fair enough. And ultimately because Lyn had agreed to sign that contract at that rate that was really a matter between them. However, I did flag with Lyn in a later meeting that she would probably be better off seeking a different agency. Because she was clearly worth \$950 a day. She was doing a \$950 job but being paid 450 or whatever it was. So I suggested she go find another agency. That was as a friend as opposed to professional advice.

20 Understand. Now can I just ask you a couple of things before we come back to that conversation?---Sure.

In terms of the way that you’ve expressed yourself about transparency and visibility if there’s a C100 company acting in an acknowledged fashion as an umbrella company and then there may be a subcontracting recruitment company dealing with a personally-owned proprietary limited company and then the contractor using that company to provide their personal services, can you give the Commissioner some idea of whether you would consider that the views that you’ve expressed are orthodox within responsible
30 procurement people like yourself?---Yes, yes.

So you’re not, you don’t advocate a position that you would consider for instance stringent or extreme what you have been giving evidence about, I understand is what you consider to be mainstream acceptable ethical recruitment practice?---Correct.

Particularly in Government. All right. And during the course of your conversation with Niall and possibly, was it Niall and possibly Ashley or were you pretty clear that it was Niall and Ashley the first time you - - -?
40 ---In the meeting, face to face - - -

Yes?--- - - - over coffee it was the two of them.

And did the notion of – you said something in your statement about the notion of an umbrella arrangement being in place, was that discussed at that meeting or was that after they’d gone off to research it and come back to you about it?---I brought it up, I showed them what I had and asked them to please explain and they said they would do so.

And did you tax them about involvement with Canberra Solutions at that stage?---No.

All right. You were leaving it to them to report back to you about the involvement of a third party, is that the position?---Yeah.

10 All right. Now in terms of when you first took this up with Jason Meeth in the chronology, I think you came to understand there was a problem from talking to Lynette Morris, you then took it up with Jason Meeth and then arranged that you would follow up with Michael Page, correct?---In, in fact having reviewed my emails it was the other way around so I actually met with Michael Page to get my information together first. After that meeting and after the phone call from them I approached Jason that day and I basically gave him the warning that these guys were dodgy and - - -

20 All right. So in terms of the way in your statement where you indicate, you say at about paragraph 8 and 9 that you became aware from Lynette Morris, paragraph 10 you approached Jason Meeth and paragraph 11 you approach Michael Page the chronology should be slightly ordered because of your own motion you'd made some inquiries of Michael Page first?---Yes, correct.

All right. And I ask you this, some of your statement you use words to the effect of but in your statement there are, there is language that's in with that rider in quote marks, does that suggest that you're fairly confident of the general effect of conversations?---Correct.

30 I just want to read something to you out of your statement. You say that you approached Jason Meeth regarding your concerns about Michael Page taking an increased margin?---Mmm.

And you say he said words to the, to you to the effect of "If needs be we can just stop using them" referring to Michael Page. You're confident that he said words to that effect?---Words to that effect, yeah, basically we don't have to use any agencies at any point. C100 had 20-odd agencies so we had the option to go elsewhere at any point.

40 All right. Had you, when you first commenced to work at the University had you noticed that in terms of Mr Meeth's recruitment that he seemed to prefer two or three particular agencies of the C100 list?---No, but like I say I wasn't really involved in that aspect of it until I started seeing some of the problems that were occurring.

All right. Going back to this conversation with Mr Meeth you've indicated in the statement "I asked him 'Have you heard of Canberra Solutions?'" I imagine you're fairly confident about that bit because you'd understood the relevance of, the potential relevance of Canberra Solutions at this time, is that right?---Yeah.

And you attribute him saying “I think I may have dealt with them at some point”. I’m not holding you to the words, are you confident with the effect of that?---Yes, yes.

10 Was the impression that you were left with as a result of this conversation that he had some uncertainty as to whether he’d actually dealt with that organisation or not?---Yes, but at that point that would be completely understandable, Jason would have to deal with hundreds of different agencies and arrangements so that was quite natural.

THE COMMISSIONER: Do you know when approximately that conversation took place?---It was June 18.

June 18?---Yes. I now know.

Thank you.

20 MR HUNT: 2012.

THE COMMISSIONER: Yes. Thank you?---Yes.

MR HUNT: And you know that because you’ve - - -?---Sorry, 2013.

All right. You know that because you have – I apologise for misleading you about the date. You know that because you have looked at certain records of your own to be confident when the meeting was?---Yes.

30 Are you able to be similarly precise about when you first met with people from Michael Page about this issue?---Yes, the same date. That’s the reason I was able to say I was definitely speaking to Jason. I spoke to him later that afternoon.

I see. And you were certainly – if it had been the case that Jason Meeth had had quite detailed contact with personnel from Canberra Solutions including phone calls across a range of weeks and months, you were not left with the impression of that level of knowledge or contact between Meeth and Canberra Solutions?---No. No.

40 Mr Meeth certainly as I understand it didn’t say anything to suggest to you that Canberra Solutions was a source of high-quality candidates that he couldn’t source directly from C100 companies for instance?---No. No.

All right. Can I just ask you a general recruitment process question?---Sure.

In terms of being protective that the University is paying the going rate for a particular candidate as opposed to the going – potential going rate for the role - - -?---Mmm.

- - - would it be good practice for selection committees to ask candidates what their daily rate is?--No.

Why not?--The commercial relationship between the, the actual candidate and their agency is kind of between them that arrangement.

10 But isn't that arrangement in effect designed to protect the recruitment provider?--I would expect full transparency to be provided in their quotation which would accompany the résumés so I would expect all of that to be in there.

But that – what you're talking about is full transparency as between the recruitment agency and the University aren't you?--Correct, yeah.

20 There's no transparency about margin for instance if there's some off-book arrangement between whether it's a C100 agency or another agency in between. I'm just trying to understand why it wouldn't be helpful, understanding that recruitment agencies either pay a finder's fee or a margin on daily rate to cover their costs, why it wouldn't be a good idea for the University to understand what the contractor themselves is netting from the arrangement?--Well, I didn't say that. I said that the contract between the University and the supplier should carry that information and there will be an expectation in that contract that any subcontracting arrangement is back to back.

THE COMMISSIONER: Meaning that it would be consistent with the primary contract?--Correct, yes.

30 Right?--So, so that information would certainly be available to the University to be able to determine what the, the person is actually getting. Now short of actually bringing that up with them, you know, face to face, there's – which is a little awkward. I would suggest we wouldn't do that.

40 MR HUNT: I'm just trying to understand if, if the expectation is say that let's pick an notional rate of 10 per cent as a daily margin for a C100 company. If that's understood and there's a range of potential fees payable for a contractor that's being recruited, what's uncomfortable about saying to the recruiter that the candidate at interview, what's your daily rate, what are you proposing that you be paid for before there's a margin added?--There's nothing stopping you doing this, there really isn't. But it's just not common practice to have those sort of discussions at an interview.

But isn't the reality that not having those discussions imbeds the possibility for, if you like, secret commissions that the contractor doesn't know about?--Possibly. But then it doesn't protect you against it either because candidates may well say something altogether different.

What because they're protecting an undisclosed arrangement?---It could well be.

But that would be a different situation wouldn't it, because at least they're in on it?---What I'm saying is there's no, there's no guarantee in requesting that information verbally at an interview. I would want all of that information contained in writing and then capsulated in a contract.

10 So you wouldn't have a difficulty with there being a draft contract rate or a proposed candidate being available with the, the daily rate and the margin and all that sort of thing disclosed in a transparent fashion in advance of the interview for instance?---Yes. That would be fine.

All right. During the course of this – once you became aware of the Morris situation, first of all you had a conversation with a number of other contractors where this phenomenon was discovered that is they were being paid much less than the University was paying for their services, correct?--- Not quite. I let that one go and we just moved on with business as usual. It was only a few weeks later and this was after Jason had left the University
20 that we had another contractor by the name of Adhi. Now Adhi was - - -

Can I just put Adhi's full name on the record for you to agree?---Please do, yeah.

That's Adhisakhi, A-d-h-i-s-a-k-h-i, first name and then surname Nagarathinam, N-a-g-a-r-a-t-h-i-n-a-m?---That's Adhi.

Okay?---So - - -

30 Pick up then understanding that that's Adhi's full name, tell me about your conversation with Adhi?---So Adhi from memory was Pranav's successor. She was brought on shortly after to help as I understand some of, some of Pranav's projects were going south. That was what I'd heard anecdotally and so they'd brought Adhi on and the trouble, the trouble was Adhi was another \$300 a day contractor. What I mean by that is there's a vast difference between a project manager who you're paying \$900 a day to, to a \$300 a day project manager. You get a very, very different product. So - - -

40 Can I pause you there for a minute. Lynette Morris you've indicated your view was she was properly a \$900 a day quality contractor even though she was being underpaid?---I had to be – take into account her sensibility, she's clearly not a \$900 a contractor, with all due respect to her. And she - - -

Lynette Morris was not?---Correct, yes.

And Adhi was not?---And Adhi was not.

All right. And - - -?---Anecdotally she was counterproductive to the project that she was working on not even neutral and that's why the decision was taken to remove her.

All right. And I want you to go on with the chronology but before we get there you just gave evidence that the projects that Mr Shanker had been working on were going south to your perception, was there some link between Mr Shanker having been retained on those projects and them going south in terms of his competence?---There was no comment on his competence that I was aware of.

All right. All right. Pick up, then you had a conversation with Adhi?---So what happened was I had an email from, I think it was Talent, it was Jean Gazo and he mentioned when we were seeking to remove Adhi he said he was letting her company know and I said, "Well, what do you mean her company? Take a step back there, what do you mean by that?" So immediately I got a phone call from him saying, well, there was this mob called Canberra Solutions that she was coming through. That is the point where I said well, hold on, we've already had one of those and they were charging one hell of a lot of money and so I asked Adhi to come to my desk and I showed her a copy of the contract that the University had between ourselves and Talent and I said, "Look, it specifies the rate that you're supposed to be getting," and from memory it was \$750 a day and she got very upset and I said, "What's wrong?" She said, "I'm only getting \$290 a day." And so we had a second case of these massive 100 per cent plus margins being applied through this particular agency. That's the point, I believe it's August 12 or 13, around that time, that I started going through all of the contractual arrangements with all of the contractors.

And did you end up having for instance a similar conversation with Anu Batra about her rate of pay?---I did.

And similar phenomena - - -?---Yes.

- - - without holding you to the figures?---Correct.

Could Mr McNulty please be shown Exhibit E2 which is just the list of the nine contractors?

THE COMMISSIONER: Yes.

MR HUNT: You've already made comments, Mr McNulty, about your understanding of the, what I understand you to be saying is that in terms of Ms Morris and Adhi your impression was that their skill level did not justify them being retained the kind of rates that the University was in fact paying on a daily rate for them is that right?---I didn't have close enough working relationships to form that opinion myself, I relied upon anecdotal evidence from other folk around the, the University.

All right. In terms of Adhi, your, your view that she was a negative contributor to the project was based on anecdotal material that you thought was reliable, is that right?---The people I used to go to lunch with every day had stories called Adhi stories of what would occur on any given day.

10 All right. Just casting your eye over that list of nine people there and accepting that you, you didn't understand anything that would allow you to have an assessment about Mr Shanker's talents or otherwise, are there any other contractors on that list that attracted commentary in terms of them potentially not being 900, \$1,000 a day type contractors?---So Tarun I didn't know. Sanjeev, he appeared to know what he was doing. Anu anecdotally, apologies Anu but - - -

And you're saying apologies Anu because you know that she's - - -?
---Because she's, she's present here - - -

- - - she's here?--- - - - today.

20 Yes?---So anecdotally to begin with she wasn't recognised as being particular well-performing, however she grew in the job and grew significantly as time went by. So - - -

So would you – can I just stop you there. Would your assessment in terms of what you understood anecdotally about Ms Batra might be that at the time of recruitment she mightn't have been up to it but she certainly developed to be a competent contractor over time?---Correct.

30 All right. Thank you?---And I would make that point about a couple of these people as well. Yeah.

All right. And were there more comments, I accept that there's something faintly odious about doing this in the witness box but were there any other comments that you wanted to make about any of the contractors you see on that list?---(No Audible Reply)

40 Either in terms of this issue about perceived competence or other people on the list that you had particular dealings with about uncovering the disparity between what they were being paid and what the University was paying for them?---Probably nothing more I'd add on that.

All right. Thank you. Perhaps that might be returned. When you made your inquiries did you determine that each of the contractors who had some involvement with Canberra Solutions in terms of their recruitment to the University all manifested a similar pattern in terms of being paid much less than the University paid for them?---Yes.

And was there ever a case of the ones where you talked to the individual contractors where the contractors were on notice of that, the difference?
---They were not aware by and large.

10 And did you establish at least in some of the cases that documentation had been prepared seemingly by Canberra Solutions that meant that the contractors didn't see anything that had their legitimate daily rate printed on it?---Yeah, I'm pretty sure there was nothing – that they would be unaware of it, yeah. The University wouldn't get involved in third party contracts so what was typically between the C100 company and down the stream our process did not require us to see any of that.

All right. At any time before Jason Meeth left did he revise what he had told you about his past knowledge or involvement with Canberra Solutions?---No, he didn't bring it up.

20 Did you ever discuss with him after that conversation on June 18, 2013 the issue of Canberra Solutions or those – that cohort of contractors particularly?---No.

Thank you?---At that point it wasn't an issue. Canberra Solutions wasn't on my radar as being the problem. The problem I felt was at that point the C100 companies.

Would now be a convenient moment for a very short adjournment unless - -
-

THE COMMISSIONER: Yes. No, that's all right.

30 MR HUNT: Unless, Commissioner, you wanted to take the morning tea adjournment now.

THE COMMISSIONER: Well, I think we'll take the morning tea adjournment and we'll resume at 25 to 12.00. Thank you.

SHORT ADJOURNMENT

[11.23am]

40 THE COMMISSIONER: Yes.

MR HUNT: I've just got a few more questions for Mr McNulty.

THE COMMISSIONER: Yes. Thank you.

MR HUNT: Thanks, Commissioner. In your conversation with Mr Meeth on 18 June, 2013 or at any time after that was the content of any communications that you had with Mr Meeth consistent with him

understanding that you were concerned about big margins either by a C100 contractor or Canberra Solutions or both?---I did mention the discrepancy as I understood it at the time between what we were paying and what Lyn was getting at that one point in time but that was the only time we discussed it.

So he understood the figures that were involved, that is University paying X amount, Morris being paid Y amount?---Mmm.

10 Yeah. And in your discussion with either Niall O'Rourke or anyone from Michael Page was there ever communicated to you that Michael Page was involved in whatever fashion it was involved as some kind of favour to Jason Meeth?---Yes.

All right. Could you just tell us a little bit more about that?---I can't recall the conversation completely but it was in a phone call to Niall on that afternoon and I – from memory it wasn't either himself or Ashley who had held the relationship with Jason it was some other chap there and that he had done it as a favour for Jason.

20 That is done it in the sense of interposing Michael Page as the C100 company between Canberra Solutions and the - - -?---In the case of done that, yes.

I understand. And can I just ask you something about your role before the University of Sydney?---Sure.

Were you working in procurement then?---Yes.

30 And what sort of scale of procurement contracts were you involved in immediately before you worked at the University of Sydney?---Well, it was an almost identical position. It was with ASIC. It was at Federal level as opposed to State level but it was as a ICT procurement and contracts manager.

And how many contracts annually might be let under your purview when you were at ASIC?---ASIC, it was about 50 to 60.

40 And what about now, now you're with - - -?---Transport for New South Wales.

Is that the new language for State Rail is it?---No.

All right?---State Rail is simply a component part of it.

All right?---So it's a cluster – it sits above a cluster of agencies. It's kind of like a, a one-stop shop.

All right. So Transport New South Wales is a much bigger agency that involves - - -?---Massive.

- - - trains, planes, automobiles. How many contractors would you have purview of in your current role?---In my current role I don't have any although that will be changing soon because I've switched within – there's a massive new program of works where there will be another 50 to 60 contractors being brought on very shortly so I'll be - - -

- 10 So just your current role isn't in that area of recruitment directly?---No. At the moment I'm doing procurement around the ICT prequalification scheme and the professional services scheme but not 0007.

So that means how many contractors of a non-0007 kind are you dealing with at the moment?---Oh look, I've got dozens of projects up in the air at the moment so, yeah, but I'm not actually managing the contracts per se. So it's a different role that I'm doing here than I did at either ASIC or Sydney University.

- 20 All right. Apart from rebadging, are there significant differences between the C100 and the 0007 - - -?---Yes.

- - - procedure?---Yes, there are. So C100 was the result of a tender and approach to market where formal responses were submitted and an evaluation process was entered into. Prequalification scheme is like a club if you like. You basically need to have the right types of insurance and pretty much anyone can get on. You need an ABN, insurance and that's pretty much it. What it does is it allows Government agencies to go to a far broader range of suppliers but it doesn't quite offer the same – and it leverages the price as well just in a different way. But it's not a panel in the traditional sense it's a scheme so anyone can join at any time.

- 30

So less rigour in reality?---Realistically, yes.

Yes, they're the questions. Thanks, Commissioner.

THE COMMISSIONER: Thank you. Does anyone have any questions for Mr McNulty? Yes, Mr Griffin.

- 40 MR GRIFFIN: Yes, Commissioner. Mr McNulty, my name is Patrick Griffin. I appear on behalf of the University of Sydney. You wrote an email on 15 August to Charles Corban in relation to these matters?---Yes.

Is it the fact that you then had a meeting with him on the same day?---I can't recall if it was the same day but it was certainly very close to that.

And Angie Morton was also involved in that meeting?---Correct, yes.

And do you know that Mr Corban then prepared a report for the University?---Yes, that's right.

And did you see that report?---No. I was told to speak to Bruce Meikle about it informally.

And did you speak to Mr Meikle about it?---Tried to. He's a busy man.

10 Were you satisfied with the promptness of the response of the University for the allegations that you outlined in your email?---I understand they had their own processes to go through. My role there was simply to raise the issues. I had no vested interest in the outcomes per se other than professional interest.

But were you satisfied with the speed with which they dealt with your allegations?---Given the speed of other processes at the University I was quite satisfied.

20 THE COMMISSIONER: A bit of a backhanded compliment, Mr McNulty, but I take your point.

MR GRIFFIN: Thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr Griffin. Any other questions of Mr McNulty? Yes, Mr Dennis.

MR DENNIS: Yes, thank you.

30 Sir, you referred earlier in your evidence to some airy fairy high-level directions. What issues did those directions concern?---What issues?

Yes?---So there's the high-level procurement policy which basically says along the lines of we need to get best value for money - - -

Yes?--- - - - and ensure that we're being fair to the market. There were no specific processes that flowed on from that with regards to the recruitment of contractors.

40 Or subcontractors?---Or subcontractors.

Right. And why do you – well, when were those directions given?---The procurement policy?

Well, the, the – yes, these directions that you describe as airy fairy high-level directions?---The procurement policy was on the website, that was agreed before my time.

All right. And why is it that you regard them as being airy fairy to use your term?---I think the reason why I said that was because there was no ensuring that new staff, new starters if you like were reading them and applying them. There seemed to be no rigor around that, there seemed to be a reference you must read these and apply these to your everyday working lives but there was no firm processes that flowed from them where people knew exactly what they were doing. One of the reasons I was there was so that the people could ask all of those questions.

10 Thank you. Now you've spoken in your evidence about the events of 18 June, 2013, if I could take you back to that day. Now you corrected something in your statement about this matter, about the order of events, is that right?---Correct.

And you first – well, at the time of making your statement at least you were of the view that you spoke to Lynette Morris first and then to the C100 recruiter second, correct?---That's what happened, yes.

20 All right. And on the basis of referring to some documents I take it it was emails, is that right?---Yeah.

You now appreciate that that was an error and those events occurred in a different order?---Correct.

All right. Now you've also given some evidence about a conversation you had with Mr Meeth later that day?---Yes.

30 And indeed you provided a statement to this Commission dated 22 September, 2015 didn't you?---Yeah.

And you recorded in writing the effect of the conversation with Mr Meeth, is that right?---Yes.

And is it the case that you recorded the effect of the conversation because you can't recall the exact words?---Yes.

40 All right. Now is there any other time prior to the date that you made the statement in writing to investigators from this Commission, is there any other earlier point in time where you have made any note in writing or electronically, handwriting or electronically, of that conversation on the afternoon of 18 June with Mr Meeth?---No.

All right. So I take it that when you made your statement on 22 September the statement was taken by way of you being asked some questions and providing answers and the answers being typed into the statement, is that right?---Yeah, yeah.

All right. So was 22 September this year the first occasion upon which you were asked to recall the events of 18 June?---No.

All right. Was it the first occasion upon which you were asked to recall the conversation with Mr Meeth?---No. I believe when I spoke to the investigators in possibly June we had the conversation then and I tried to recall to the best of my ability what occurred then.

10 All right. When you say you spoke to the investigators in June, are you referring to investigators from ICAC?---Correct.

Did you write anything down at that time?---No.

Do you know if anything was written down at that time?---I don't know.

All right. You said in your evidence that you basically or I understand your evidence to be that you basically told Mr Meeth that "Look, these guys are dodgy", is that right?---Yeah.

20 And "these guys", meaning Canberra Solutions?---Yes.

Do you recall whether or not the word "dodgy" was used in the course of the conversation?---Whether the words, I can't remember what I said five minutes ago never mind what I said two and a half years ago. But I can remember that I brought up words to that affect.

All right. You – do you know whether – well firstly, Mr Meeth left the employment of Sydney University only a matter of weeks after that conversation, is that right?---Yeah, yeah.

30 Do you know whether Canberra Solutions were ever used from that day on, that day being 18 June?---Were they used - - -

When I say "used", just to be fair to you, what I mean is were any new subcontractors put on after that day, do you know?---I was not made aware of any of those subcontractor arrangements if they existed.

40 All right. Do you know whether Mr Meeth appeared surprised or shocked when you said something to the affect about Canberra Solutions being dodgy?---No. Not at all. Jason was a very affable chap and he was very laid back at all times, then was no different. He just said with a smile on his face "Yeah. O.K." and effectively do what you need to do.

All right. And did he say if needs be we won't use them?---Yes.

All right. And was that in reference to Canberra Solutions?---No. That was in relation to Michael Page.

All right. And was that in context of you raising Michael Page being the party to an arrangement that you thought was inappropriate?---What I saw was a bit of finger pointing, what I felt was finger pointing from Michael Page trying to blame Jason for something which was quite clearly something they should've been looking after. So the whole point of that conversation was not to see what Jason knew it was to give him the heads up that there might be a problem. He didn't seem particularly concerned that there was.

10 All right. So you, you said in your evidence that you thought you were reasonable confident that Mr Meeth had said words to the affect "I think I may have dealt with them at some point". Do you recall that evidence earlier?---Yeah.

All right. Do you recall the last thing you said to him before he said those words?---No.

Do you recall the next thing you said to him after he said those words?---
Not really.

20 All right. And could it be that Mr Meeth expressed no uncertainty about his knowledge of Canberra Solutions?---What do you mean by that, "no uncertainty"?

Well in answer to Counsel Assisting the questions I understood your evidence to be or the effect of your evidence to be that Jason Meeth was uncertain or expressed some uncertainty. Would that be a fair summary of your evidence to Counsel Assisting?---With regards to Michael Page, yes. I would agree with that.

30 All right. So the comment "I think I may have dealt with them at some point", refers to Michael Page not Canberra Solutions?---No. Sorry, yes. To be clear, when I brought up the name Canberra Solutions that's when he said "I may well have dealt with them in the past". However, the first of my conversation with him was not in regards to Canberra Solutions. See umbrella companies can take any form from a simple Pty that represents a candidate all the way through to other agencies. And so I didn't expect there to be any relevance there.

40 Could he, could he simply have said "I've dealt with them in the past" or "I've dealt with them at some point or some points in the past"?---He may well have said that.

All right. If he had said "I've dealt with them in the past", there would be no uncertainty expressed, would you agree with that?---I probably would have pushed further thinking about it. I mean had he said "I've dealt with them in the past", I might have raised a little bit more so - - -

All right. But you're not prepared to positively reject the suggestion or the possibility that's what he said?---It was late on a – late in the afternoon. I might not have pushed it because I wanted to get home.

All right. Now you had a – was it during the same conversation that you pointed out to Mr Meeth that Lyn Morris was underpaid?---Yes.

10 All right. And did Mr Meeth respond to you with words to the effect of asking you what, what our options are or what are our options or words to that affect?---No. I don't think so, no.

All right. You're less than certain about that, would that be fair to note?---Yeah.

All right. Could it be that Canberra Solutions weren't mentioned at all in that conversation?---No.

20 Now one of the – do you still have that exhibit in front of you with the list of contractors, Exhibit E2?---I will have shortly.

Yes, thank you?---Yes.

Yes. Sir, you gave some evidence about a particular contractor Pranav was, you referred anecdotally “that his contacts were going south”, is that right?--Yeah.

And the term “going south”, I take it you seem to convey that he was underperforming?---That was the insinuation, yes.

30 All right. And by Pranav you mean Pranav Shanker, is that right?---Correct.

All right. During your time at Sydney University did you know a person by the name of Mark Pigot?---Yes.

All right. Was he one of the people who convey these anecdotes to you about Pranav?---Not to me.

40 It's something you – but you're aware he provided some anecdotes about him and you've picked up on them from other people, is that right?---Well I've got no idea about what Mark might've said. I've got a good idea about what other project managers and peers around the place were saying.

All right. Is Mark Pigot somebody you would go to lunch with every day?--No.

All right. Now you also told us that Anu Batra was somebody who – well would this be a fair summary of your evidence? “Perhaps wasn't up to the project at first but her performance substantially improved over time”?---

Anecdotally she didn't hit the ground running and it did take some time for her to get to where she needed to be. However, the feedback from the projects that she was working on, again, anecdotally was that she was meeting the requirements.

All right. And you said in your evidence that you would say that or would this be a fair summary of your earlier evidence? "That there were other people on that list that you would say the same thing about"?---Yes.

- 10 All right. And who are those other people?---Alex was one. When she came along she was completely unsure of what she was doing and just pretty much floated around the place. But again, by the time - I think she got assigned to another division when it was realised there was absolutely no work for her in ICT and then she ended up doing reasonably well for them. That's one example.

All right. And just so that we're clear who we're talking about Alex is - - - ?--- Alexis Voronova.

- 20 Voronova, V-o-r-o-n-o-v-a. All right. And was there anybody else on that list that you would say the same thing about?---Probably not, I probably didn't have enough contact with the other names on the list for me to form any meaningful response there.

All right. But with respect to Ms Voronova and Ms Batra would it be fair to say it's not your direct observations but perhaps if we could put it this way, what you heard amount to anecdotes or an aggregate of anecdotes which might add up to a reputation?---Yeah.

- 30 Yeah. All right.

THE COMMISSIONER: Sorry to interrupt, Mr McNulty, can I just ask you why do you say that as far as Ms Voronova was concerned there was absolutely no work for her in ICT? What was that in relation to?---Well, I remember seeing the new girl in the place and I asked her what she was doing on that first day because she seemed to be sat at her desk twiddling her thumbs and she said - - -

- 40 Right?--- - - - don't really know, I was supposed to be doing some work but it hasn't materialised, Jason's not around and, yeah, so - - -

And how long did that situation last until she was reassigned?---I'm not entirely sure. I know that she eventually got assigned to a different project in a different department and she was, yeah, she was working there but I'm unsure of the timing.

Right.

MR DENNIS: Yes, thank you, Commissioner.

Sir, you also said in your evidence that after, at some point after the discussion on 18 June with Mr Meeth you had a further conversation with him regarding the big margins if I could put it that way?---Sorry, sorry, did you say after that conversation?

10 Yes?---No, it was in that same conversation. At only one point was this ever raised and like I say my focus when I had those conversations with Jason was on the C100 company because I was trying to deal with them and get them into line at that point in time.

All right. Now - - -?---I didn't go into it too deeply with regards to Lynette's money.

All right. So, and you say that he was – would it be fair to say that the, the difference between what the University was paying for Lyn Morris and what the subcontractor was paying Lyn Morris represented a very big margin?
---Yes.

20

All right. And you say do you that you discussed that fact with Mr Meeth on the afternoon of 18 June?---I mentioned it, yes.

All right?---There was no great discussion around it, it didn't go much deeper than that.

All right. You don't recall what words you used?---Not exactly.

30 All right. It wasn't a substantial part of the conversation?---No. See I wouldn't necessarily know what Canberra Solutions were providing for Lyn so you often get subcontractor arrangements where the, the different entities provide different services. It wasn't for me to say what the, the arrangement between Lyn and her agency, Canberra Solutions, it wasn't for me to say there was anything necessarily wrong with that but it was there and mentioned to highlight the fact that we were paying a lot of money and we were getting someone who was willing to accept a lot less. That was the exact context if not the exact word.

40 Right. And you said in your evidence that Mr Meeth was aware of this significant margin or do you know whether he was aware of it?---That he was aware of what Lyn was getting, no, I didn't say that.

All right. So the upshot – would this be a fair summary, that at the end of that conversation on the afternoon of 18 June you couldn't say one way or the other whether Mr Meeth was aware of this significant margin that Canberra Solutions were taking?---Oh, no, I certainly mentioned it, again it wasn't up to me to discuss that in any depth.

All right?---My focus was on the C100.

Would it be fair to say that Mr Meeth did not say anything indicating that he had prior knowledge of the significant margin?---He said nothing to make me aware of the fact that he was aware of those previously high margins.

10 All right. Could the witness, Commissioner, could the witness be shown his statement again, volume 18, page 177 paragraphs 9 and 10. Could I just ask you to read in particular, I'm sorry, paragraphs 10 and 11 of the statement, just read it to yourself and let me know when you're finished reading it?
---Yeah.

All right. Sir, would it be fair to say that you, you don't record in your statement anything about discussing the significant margin charged by Canberra Solutions in terms of "I said to Jason words to the effect," something to do with the margin?

20 THE COMMISSIONER: Well, that depends how you construe the opening sentence in paragraph 10.

MR DENNIS: Oh, all right. So in paragraph 10 you say, "I approached Mr Meeth regarding my concerns that Michael Page may have been taking an increased margin."?---Mmm.

Could it be that there was no mention of Canberra Solutions taking an increased margin?

30 THE COMMISSIONER: Mr Dennis, I have to say I'm a bit confused. Earlier in the cross-examination you suggested to Mr McNulty or you framed a question in these terms could it be that Canberra Solutions wasn't mentioned, now you're putting the proposition that could it be that there was no reference to the increased margin being paid to Canberra Solutions. In terms of determining precisely what it is you're putting I need to know if it's the former or the latter.

40 MR DENNIS: Yeah, well, well, yes, your Honour, I can, I can indicate that, you know, frankly my, my instructions are that Mr Meeth himself experiences considerable uncertainty about what transpired in this conversation so - - -

THE COMMISSIONER: All right. Well, anyway, do you want to put to the witness the possibility that Canberra Solutions was mentioned but that there was no reference to Canberra Solutions being paid a significant part of the daily rate?

MR DENNIS: Yeah.

THE COMMISSIONER: Is that, is that the question, Mr Dennis?

MR DENNIS: No, it's not.

THE COMMISSIONER: No. All right.

MR DENNIS: I'll, I'll, I'll withdraw the question. I understand your concerns in terms of putting defined propositions. I've got some difficulty with some very murky instructions.

10 THE COMMISSIONER: All right. Well, you can explore the conversation but this is, this has been gone over a number of times so - - -

MR DENNIS: Yes, yes.

THE COMMISSIONER: - - - we'll have to move on.

MR DENNIS: Yes, thank you.

20 Could it be, and just one more final question on this theme, Commissioner, could it be, sir, that Canberra Solutions weren't mentioned at all in this conversation on the afternoon of the 18th?---Sorry, can you speak up, I couldn't hear that.

I'm sorry. Could it be that Canberra Solutions weren't mentioned at all in your conversation with Mr Meeth?---No, as I mentioned before it was definitely mentioned.

30 All right. Now, sir, you also gave some evidence about speaking to a person called Niall and he relating to you that another chap had done something of a favour for Mr Meeth, do you recall that evidence?---Yeah, yeah, yes.

Do you know a person by the name of Ryan Arthurs?---No, but I do recall the name from the paperwork.

All right. And the person, the person Niall, is that Niall O'Rourke?---Niall O'Rourke. I can't remember his surname.

All right?---I, I believe Niall Rourke or O'Rourke, yeah.

40 All right. And just remind me, where was he from?---Michael Page.

And do you know whether this person Niall – based on whatever it was he said to you in this discussion do you know whether he had any direct knowledge of what he was asserting or whether it was an anecdote?---Well, I'd instructed him to go find out from the source so I guess you could describe it as anecdotal.

You don't know for example whether he ever spoke to – well, you don't know who he spoke to for the purposes of finding out?---Yeah, look, I mean he could have fobbed me off when we were face to face but he actually volunteered to go and find out exactly what was going on. So I, I can only assume that he went and spoke to the, to the relevant person. I can't say for sure but that's, that would be my assumption.

Yes, thank you. That's the cross-examination, Commissioner.

10 THE COMMISSIONER: Thank you. Does anyone else have any questions of Mr McNulty? Anything arising, Mr – oh, sorry, Ms McGlinchey. I'm sorry.

MS McGLINCHEY: That's all right. Just one question. Mr McNulty, my name is Ms McGlinchey, Solicitor, and I appear in these proceedings for Samuel Williams. I just have one question arising out of some evidence that you have given a few minutes ago. You were asked some general questions by Counsel Assisting about the, the knowledge that you may have of the arrangements between the University and the, the provider, the C100
20 provider and you said that it wasn't – words to the effect that it wasn't your place or your role to go into those arrangements. Do you, do you recognise the area of evidence?---Yeah.

Okay?---Yeah.

And I think, and please tell me if I'm wrong, that you said that you may not necessarily be aware of other matters between the contractor and the recruiter and I gather that you mean that there may be other kinds of benefits other than salary. Is that a correct – is my interpretation of that
30 correct?---Yes. So for example insurance – indemnity insurance is often something that's bundled into it and, yeah, there could be other arrangements.

All right. So it may be – is this correct that it may be that between the contractor and the C100 provider that there may be benefits such as insurance. Could there be other things such as superannuation payments?
---Well, there are the standard on costs, yeah.

40 Yes?---But where the indemnity insurance lies – so if you're a Pty company representing a candidate and the Pty – and then you contract with one of these – the, the indemnity insurance has to occur somewhere in the chain before the contract with the University.

I see?---So that might be held by the Pty company and - - -

Yes?--- - - - therefore the, the – that would be incumbent upon the candidate who runs that company to pay that or that indemnity insurance might be at the next level up.

Thank you. And payment of that insurance may be a benefit that the contractor receives and it may have been paid by recruiter as part of some sort of package of benefits?---Yes.

And there may be other things included in that package?---Yes.

10 And in your industry experience can you assist the Commissioner about what those matters may include? I suggested superannuation. I'm not sure if that would be one of them?---Again these insurances need to occur somewhere in the chain. There's - - -

All right. Okay?---As – do you mean – are you referring to other benefits?

Yes, I am. I'm just generally exploring?---So look, I can't think of any off the top of my head because it's so rare for people to want stuff other than money for their services.

20 Okay. All right. So when you say that you're not aware of the arrangements between the – and it wouldn't be your job as I understand it to inquire into the arrangements between the C100 recruiter and the contractor, you would also not be aware of whatever arrangements exist between the C100 provider and the, how shall we say, the original provider if there was a third party arrangement in place?---If you haven't requested that information up front when you were approaching the market, I mean you can ask for that stuff later on but there's no requirement for anyone to provide it.

30 Thank you. That's all.

THE COMMISSIONER: Thank you, Ms McGlinchey. Yes, Mr Hunt.

MR HUNT: When you were answering questions to Mr Dennis you said something about a subcontracting company might be providing all sorts of things to the ultimate contractor?---Mmm

40 Do I gather that you meant that there are companies who might provide payroll support, admin support, insurance, all of those kind of things to a contractor and it's that entity that is contracting with the C100 recruiter that's putting them up - - -?--- - - -Mmm.

- - - but they've got functions for the contractor that are not recruiting functions but are admin functions?---Correct, yes.

If, if there is a subcontractor who is working in a fashion where the C100 company is providing an umbrella service there's an obligation isn't there for under that regime the C100 recruiter to note subcontractors that are working – they are working within that fashion?---Yeah. Look, I would

expect to see that in normal documentation. Certainly the stuff I use these days has that already in there. You have to spell out the nature of the relationship all the way through the chain. It's - - -

Could I just show you a document. I'm going to show you a document from volume 2, page 18. Just if you'd look at this on the screen. And this is from a document that's called a Contract Guide Contract 100 Contingent Workforce - - -?---Yes.

10 - - - provided by Procurement Government Services?---Yeah.

Do you see there extracts that relate in this instance to two companies Michael Page International and Paxus Australia?---Mmm.

And running down you'll see each of those have under a field called subcontractors indication nil?---Mmm.

20 Are you familiar with something like that where there would be disclosed subcontractor?---So this in the, in the panel rules as opposed to the documents that we would actually use in practice. So that doesn't specifically – that doesn't refer to – and the agencies who will give evidence will also confirm this. So for example, Sean McNulty comes through a Pty company, right. Technically the, the Pty company will then contract with Michael Page who contracts with the University. That is a legitimate subcontracting relationship despite what it says here. This does not refer to subcontractors in the manner I think you're putting to me.

30 I'm – I think we dealt with subcontractors that provide admin that are some kind of corporate entity representing the ultimate contractor?---Yeah.

Or at this stage of the proceedings the candidate?---Yes.

If there is a subcontracting entity that is a recruiter rather than an admin provider wouldn't under the panel rules one expect a recruiter of that kind to be disclosed?---I would expect - - -

40 And I'll show you an example. Look at page – could you look at page 19 and under Peoplebank and Quay Appointments I think you'll see a number of what would look to be disclosed subcontracting – subcontractors that by their very nature would seem to be recruitment style services. Do you see that there?---Yeah, yeah.

Is that what you'd expect if there were a subcontractor not of that admin kind but of the recruiting kind being engaged by a C100 company?---Yeah, yeah. Yeah. So this – the old C100 but these things would change from time to time. This is a point in time but, yes.

Yes?---Yes. Yes, I would agree.

But there would be an ongoing obligation to disclose subcontractors and for a good reason?---Yes.

Can I just ask you a little bit more about the – you’ve talked about Niall and answered some questions from Mr Dennis, I think in your statement at page 11 you talk about Niall?---Yeah.

10 So the person from, from Michael Page that you dealt with was Niall O’Rourke, does that sound right to you?---Yes, yes.

And was it part of that conversation that you had with Niall where he undertook to make other inquiries any exploration of the basis on which this favour had been done for Jason Meeth?---No. Because I thought he was being – I didn’t really believe him. I can’t imagine any of the managers requesting favours being done so I kind of brushed that away. I remember him saying it but I didn’t particularly believe it.

20 So at that point you didn’t accept that there was some legitimacy to what he was saying about it?---Yeah, yeah.

And I assume you - has that in retrospect changed?---Yeah. Well with hindsight, yeah.

When you indicated that you took up the topic generally in your later conversation with Jason Meeth and he didn’t seem to be, my summary, perturbed. He didn’t seem to be perturbed about any impact on himself, correct?---No, no. Not at all.

30 He didn’t seem to be perturbed about Michael Page’s dealings but to say that we mightn’t, mightn’t work with them anymore?---Yeah.

Didn’t seem to be perturbed at all about Canberra Solutions?---No.

The net of your impression was rather than whatever the actual words were, you were left with the impression that Jason Meeth was uncertain about whether he’d dealt with Canberra Solutions or not?---Correct, yeah.

40 And he didn’t seem perturbed about the contractor being out of pocket?---
(No Audible Reply).

You’re shaking your head, that means, no, I assume?---No. He didn’t seem perturbed, sorry.

And what about the University, did he seem perturbed about, you were presenting a disparity, did he seem concerned about the University being out of pocket?---No. No, he didn’t.

That concludes the re-examination. Thank you, Mr McNulty.

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

THE WITNESS EXCUSED

[12.22pm]

10 THE COMMISSIONER: Yes, Mr Hunt.

MR HUNT: I call Anu Batra, please.

THE COMMISSIONER: Just come forward Ms Batra. I take I that you don't have a legal representative here today?

MS BATRA: No, I don't.

20 THE COMMISSIONER: Can I just explain to you as I have to other people that the questions asked by the legal representatives in this inquiry must be answered truthfully and you don't have the option of refusing to answer. You must answer them truthfully even though the answers might implicate you in some form of wrong doing and you would under those circumstances be entitled to object to each and every question and that objection would operate effectively to protect you from the use of your answers against you in civil or criminal proceedings. But I can make an order under the Act which operates as a blanket objection so that the effect of that order is that none of your answers can be used against you in civil or criminal proceedings subject to one very important exception and that is that
30 the order doesn't protect you from the use of your answers against you if it should be found that you have given false or misleading evidence to the Commission. Do you understand that?

MS BATRA: Yes, I understand.

THE COMMISSIONER: Would you like me to make the order for you?

MS BATRA: Yes.

40 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 NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR
10 **THING PRODUCED.**

THE COMMISSIONER: Would you like to be sworn or affirmed, Ms Batra?

MS BATRA: Yeah.

THE COMMISSIONER: Affirmed or sworn?

20 MS BATRA: I don't know the difference, I'm sorry.

THE COMMISSIONER: If you are affirmed you make a promise to tell the truth, if you're sworn you make the same promise on the Bible but they operate in exactly the same way. In other words you're under an obligation to tell the truth. Do you have a preference?

MS BATRA: I'd like to be affirmed.

30 THE COMMISSIONER: All right. Thank you. Can we have the witness affirmed.

THE COMMISSIONER: Thank you. Take a seat. Yes, Mr Hunt.

MR HUNT: Is your name Anuradha Batra?---Yes, it is.

And is your first name spelt A-n-u-r-a-d-h-a?---That's correct.

10 And your surname is B-a-t-r-a?---Yes.

Are you commonly known as Anu?---Yes, I am.

Thank you. Ms Batra, I think that you worked as a software engineer at various positions from 1999 to 2003, is that right?---That's correct.

In India?---Yes.

20 And then between 2003 and 2008 you were a technical analyst again working in India?---Yes. I worked as a technical analyst or a technical consultant at NIT Technologies. I worked in India as well as London at that time.

Thank you. And for what period of that time were you working in London?---So I worked for six-month stretches. I think two six-month stretches and one three-month stretch.

30 Thank you. And then ultimately you became a business analyst with the same company between 2008 and 2009?---That's correct.

You ultimately worked in the United States of America having arrived there in 2009 and you worked as a business analyst until 2002, 2012?---'12, yes, that's correct.

You came to this country then?---I came to this country in May 2012.

40 And what was your Visa status when you first arrived here?---In Australia. I arrived – my husband was a student so I arrived with a Student Visa. We had also applied for permanent residency at that time.

And so at that time you, you had an entitlement to be here that was linked to your husband's Student Visa?---Yes.

And I think on occasion, was there an occasion where you had to leave the country and return to keep your Visa situation valid?---We were granted permanent residency I remember around July, no, it must be, between 23 and 28 or something and we had to go out of the country to get, become permanent residents. So we did travel outside for two, three days.

All right. And I think you had back in 2012 a relatively young child?---Yes. I had – when I arrived here I had an 11 month, I think, 11, 12, sorry. It would be a 13-month-old, yes.

All right. And is it the case that you had – been here for a couple of months before you ultimately obtained a contract with the University of Sydney?---Yes. I came here on, I think 13 May, 2012. I got a contract with the University of Sydney in June, 2012.

10

What, what appreciation at that time did you have about pay rates for people who had ICT experience and business analyst experience?---I, I've always worked as an employee before this, either in India or in the United States. I had an idea what the pay rates for employees were for my position in the US not here and when I came here I did do a bit of research but I did not get any information about what the contracting rates were for employees, sorry, contractors.

20

And it follows from your answer about always previously being in employment that this was your first - - -?---Contractor.

- - - ever time as a contractor?---Yes.

30

And I'll come back to some of the contracting arrangements in a minute but do you agree that once you started to do the work that there was challenges for you that you ultimately met in terms of skilling up and being able to meet the demands of the project that you were working on?---Yes. So I think the Universities are different landscape anyway compared to – plus I hadn't worked in Australia before this so I would contribute the learning challenges I had with respect of that.

Is it fair - all right. Is it fair to say that there was a steep learning curve but you ultimately got there?---Yes. So there was a steep learning curve in terms of processes and, yeah, I did get there.

40

All right. In terms of the tasks that were required of you, and I accept this is a difficult thing that I'm asking you to assess, would you thinking about your skillset, your knowledge of the Australian environment, your debut as a, as a contractor rather than an employee, would you have considered that you were a premium candidate for the role that you were being put up for or that it was one that you were capable of but would have to get better at?---I think I was capable of and would get better at – because as an employee you still get time to ramp up. I think as a contractor you have to hit the ground running so I guess that's the challenged I faced.

All right. You indicate in your statement to the Commission that you were put in touch with somebody called Balu Moothedath?---Ah hmm.

Did you understand anything about his company or his experience when you were put in touch with him?---So he was put in touch to me by mutual friends so one of my husband's friend also mentioned him and so did my school friend from my school in India mentioned him and they said he had a recruitment agency and, and I did not do enough research on, on the background of that company.

10 And could you just tell us what, once you engaged with Balu Moothedath what due diligence he did in relation to you?---So he did do some reference checks for me at the time when he offered me the employment so there were these forms that he sent to me which I had to send to people back at my company to fill out.

And they were Indian-based references were they?---No. So one was a US-based reference and one was an Indian-based reference.

20 And do you know apart from supplying them to Balu whether he did anything in relation to them? Did you ever hear from the referees that there had been contact?---So I sent the form to the referees and, and – if I remember correctly and, and I gave it back to him so, yeah, so I emailed them those forms, they filled it out and I sent it back.

Oh, I see. So they, they filled out a bit of a questionnaire about you - - -?
---Yes.

- - - and was the questionnaire designed by Canberra Solutions was it?
---I don't know if it had the Canberra logo on it, I don't remember, I don't recall that.

30 All right. When you commenced to deal with Balu did you realise that you were dealing with a company called Canberra Solutions or were you just dealing with this person who you knew as Balu Moothedath?---So I was, I was told he was, the company was in his wife's name and she was running the company. I did talk to Sonata in regard to my payslips once and that's all.

So, so did he tell you that from the beginning, that, that you were dealing, you were dealing with a company called Canberra Solutions first?---I - - -

40 Can you remember?---I don't recall exactly whether he mentioned that initially or - - -

All right. Whenever it was that he mentioned the company are you saying that at that time he made it clear to you that Sonata was the director of the company?---Yes.

And then was it – did you have any dealings with her before you became a contractor with the University or was it all administration later?---It was all

administration later but I, I saw her signature on the contract that he brought for me that I met, when I met him at the café near the station but that's all I saw of the lady, yeah.

All right. Apart from having referees fill out this questionnaire I assume you provided Balu with a CV did you, an outline CV of some kind?---Yes.

And did he interview you?---No, he, he did talk to me over the phone but - - -

10

All right. We'll - - -?---- - - - I don't remember anything like an interview exactly.

All right. Given your experience across three continents before you came to work in Australia, you wouldn't characterise the telephone call that you had with him or telephone conversation that you had with Balu as being an interview?---No, I wouldn't characterise it as an interview.

20

All right. You're familiar with the process of your skills and background being screened by a would-be employer aren't you?---Yes.

And you didn't have anything of that nature with Balu?---So I mean can you clarify what you mean by screen, so - - -

30

Well, apart from you indicating that you wanted work and getting him getting from you a CV and the reference questionnaires I'm trying to have the Commissioner understand what else if anything Balu did to work out what kind of work you were suitable for, what sort of work you'd done, that's what I mean by screening?---So he did try and understand over the phone what kind of work I had done and the reference checks that he did were not at that point, they were done later when I got the job offer from University of Sydney, they weren't done at this point.

All right. So the reference checks were not done before your name went up to the University, you're confident about that?---That's what I recall, I'm not 100 per cent confident, no.

40

All right. Now when you were told that you had an interview - - -?---Ah
hmm.

- - - did you understand that there was any other company involved in putting you forward for interview?---So I was told by Balu that I was supposed to meet somebody known as Jason Meeth and I was supposed to say that I, I was representing, sorry, I was with Greythorn.

All right. And had you had yourself any contact with Greythorn?---No, I hadn't, I hadn't had any - - -

Had Greythorn - - -?--- - - - contact with - - -

Sorry, I cut you off?---Sorry.

Had Greythorn had any contact with you?---No.

And in saying no to those two things I gather you mean physical contact, telephone contact, email or other correspondence, none of that either way?
---None of that.

10

All right. Did you understand from Balu why you needed to say that you were with Greythorn?---So I did ask him and he said they were subcontracting for Greythorn and that is what I understood.

Did you understand anything, sorry, it looked like you were thinking about something?---I was thinking exactly when I had that conversation so I think I had that conversation after he told me that I had gotten through, not at that point.

20

So that was at the documenting stage?---Yes.

But you're confident that before you went to the interview two things you knew were that you had to say you were with or you should say that you were with Greythorn is one, yes?---Yeah.

And that you knew you were being interviewed by somebody called Jason Meeth?---That's correct.

30

Did you know anything more about him from Balu, Mr Jason Meeth?
---No, no.

Did you understand what his role was at the University?---No, I only understood the role once he introduced himself during the interview.

And how many people were present at the interview?---So there was Jason Meeth and there was Jovan - - -

Apostolovic?---Yeah.

40

All right. Who asked most of the questions at the interview?---I think most of the questions were asked by Jason Meeth. One question was asked by Jovan about my working rates, whether I could work in Australia or not.

Ah, so not, not rates as in how much - - -?---No.

- - - pay but what entitlement you had to work?---Yes.

Do you remember him, that's Jovan, being concerned about what your visa was and what it could, it could or would or wouldn't permit you to do?
---Yeah, so he asked me whether I had, yes, so whether I was allowed to work, yes.

And did he express any concerns to Mr Meeth while you were there about that, that is your suitability or availability because of visa restrictions?---I, I don't recall what he exactly said but he did say something to Jason but I don't remember what it was at the time.

10

Was it about the fact effectively that if your husband stopped studying that it might make your visa situation vulnerable, does that ring a bell?---No.

Could be?---Could be but I'm not sure.

All right. What kind of questions did Mr Meeth ask you?---So he asked me questions about how I – I remember one question clearly. He'd asked me how I'd handle a difficult situation with a stakeholder and he asked me to explain the previous projects and what I had done in them. That's the two set of questions I remember.

20

All right. Do you remember anything that could be described as a technical question exploring your technical skillset?---I don't remember the rest of the questions but I don't remember anything very technical about them as well.

All right. Did you get any sense as the interview happened as to your likely success?---I thought the interview went fairly okay but I wasn't sure that it was going to be successful.

30 All right. How long would you say all up you were interviewed for?---I think for about 15 minutes.

And you think it was after that point that there was any reference checking?
---Yeah, I remember clearly after that point there was some reference checking.

All right. And I think after you were told by Balu that you'd been successful for the role it was – you made arrangements to meet up with him because you had been told that you had to sign a contract?---Ah hmm.

40

You say in your statement the Commission, "I have been informed of my daily rate earlier on the phone. It was a daily rate of or about \$290"?
---That's correct.

Was – were you informed about the daily rate before you had been for your interview or that was after the interview?---It was after the interview, after he told me you were successful and, yeah, that's when we talked about the rate.

All right. And I gather you tried to negotiate the rate up but it was - - -?
---Yes.

What did Balu say when you tried to get more – a higher daily rate?---So I did try and negotiate the rate because I thought it wasn't up to the mark in terms of even if I got a – I'm in a permanent job with a pay so it was lesser than what I was getting in the US. I did try and negotiate and he mentioned that because I had no Australian experience that he couldn't offer me more.

10

All right. Could the witness just be shown please the contract that's at volume 18, it starts at page 30 but page 34. Now when you, when you signed a contract I think you said that it already had – you saw that it had been signed by Sonata. Is that right?---(No Audible Reply)

Unfortunately this doesn't have the signatures on it, it's got dates on it for confidentiality purposes?---Right.

If you need to see a document with actual signatures just let me know?

20

---Right.

But thinking about it now and seeing the name Sonata MD there and then your name – your name on that page is in your handwriting. Is that right?
---That's correct.

And the date is in your handwriting?---That's in my handwriting.

And you signed that on that day?---Yeah.

30

And can you now say – you said something in your evidence earlier about there being a – you having seen Sonata sign your contract. I'll just show you this document?---Yeah.

I'm showing the witness un-redacted copies of pages 34 and 35 - - -?---Yes.

- - - of volume 18. You just have a look at those documents please, Ms Batra?---Thank you.

Seeing those documents now - - -?---Ah hmm.

40

- - - and looking particularly at the date on page 35 underneath the signature that's there for Sonata, does it now seem to you that those were already signed when you signed them?---I think so, yes.

And was there anything in that document – you relied on the material that was put on page 35 in terms of what your daily rate was. That was \$293.58 exclusive of superannuation?---Yes.

When did you first become aware – perhaps those pages could be marked for identification might be sensible.

THE COMMISSIONER: Yes. MFI 2.

#MFI 2 - UNREDACTED COPIES OF PAGES 34 & 35 OF VOLUME 18

10

MR HUNT: When did you first become aware that the University was paying a much higher daily rate for your contracted services?---So Sean approached me in – I think it was in 2013.

And when you say Sean you mean Sean McNulty?---Yes, I mean Sean McNulty.

Yes?---So he asked if I worked for Canberra Solutions and - - -

20

And what did you say?---I said yes, I did and he asked me how much I was getting and then he did take me to a seat and show me how much the University was paying for me.

And can you now remember how much that was?---It was 750.

Did you understand – first of all, did you ever understand that there was a margin for Greythorn to be paid for putting you up for this contract?---I understood there was, there's a margin fee that goes to Greythorn for putting me up for the contract and I - - -

30

Did you understand that because Balu told you or that was just your expectation commercially?---I think that was my expectation and I also expected Canberra deducted a certain amount because I thought they were – there was a contract. I mean there's Greythorn and there was Canberra so I anticipated that they both had had a certain percentage.

All right. Did you have any commercial expectation that the size of the margin that Canberra Solutions was apparently taking would be so large? ---No.

40

Would you have entered into this agreement had you known that the effect of it was that the University was paying \$750 a day but that - - -?---I wouldn't have - - -

- - - more than 50 per cent of the rate was going to Canberra Solutions for having put you up for the job?---I probably wouldn't have taken up the employment then.

Did you ever have a conversation with Balu or Sonata – withdraw that. Your only conversations with Sonata were about timesheets?---It was regarding – I think once regarding – once that I had regarding timesheets and one payslip that I couldn't see.

All right. And that was material that Sonata seemed able to progress for you. Is that right?---Yes. So she did share a Google drive with the payslips, payslip that I requested.

10 All right. So she didn't have to go off and talk to Balu to be able to deal with your queries?---No, she told me she'd take care of it and that was all that I remember of it, yes.

Did you ever communicate with her by email?---No.

Did in conversations either with Balu, Sonata or both of them you ever understand that there was some particular arrangement or connection between Canberra Solutions and Jason Meeth?---No.

20 And you've never understood that in terms of communications from them? ---No.

Yes, that's the evidence. Thank you, Commissioner.

THE COMMISSIONER: Does anyone have any questions of Ms Batra? Yes, Mr Dennis.

MR DENNIS: Yes, thank you. Ms Batra, I want to take you to firstly the question of your visa?---Right.

30 Now, you – can you hear me?---Yes, I can hear.

Thank you. So I understand your evidence to be that you arrived in Australia and in effect achieved permanent residence a short time later. Is that right?---That's correct.

All right. And tell me, did you utilise the services of an immigration agent or a lawyer?---I used an immigration agent.

40 All right. And was the basis of your immigration and the granting of permanent residence on the basis that you had certain academic and professional skills, in other words, that you were a skilled migrant?---That's correct, yes.

And were you advised when you were in the process of making that application that you would have no difficulty obtaining permanent residence?---There was a, I think there's a skilled list or whatever that you could apply on the basis of so that's what I applied in, yes.

All right. And, and at the time of making your application you believed that you would well satisfy that skill list?---So yes, there was a role on that skill list that I could apply for, that I would be able to I think apply experience to, yes.

All right. Now during the interview you were, you were asked about your capacity to work in Australia, is that right?---Yes. He wanted to ask me about my visa status and, and whether I was eligible to work here.

10

All right. When is the first time that you were asked to recall that interview?---Sorry, recall that interview - - -

Yes, well - - -?--- - - - and remember what happened what happened during - - -

Yeah, to, to remember the conversations in the interview, when was - - -? ---So when, I think Simon contacted me about this investigation, that's the time - - -

20

All right. And is Simon somebody who's an investigator from ICAC? ---Yes, Simon Berry, yeah.

All right. And, and when was that that he contacted you?

MR HUNT: Well, I object to this, your Honour, Commissioner, I don't know how you're going to be assisted by - this is hardly a pivotal interview but - - -

30 THE COMMISSIONER: I wouldn't have thought so but look, Mr Dennis, is there some dispute about whether or not - - -

MR DENNIS: I'll come to the point.

THE COMMISSIONER: Well, can I just point out I don't recall it being put to Mr Apostolovic that that conversation didn't occur.

MR DENNIS: No, no.

40 THE COMMISSIONER: Right. Okay. Let's go.

MR DENNIS: All right.

Ma'am, are you quite sure that it was Jovan that asked about your migration status?---That's what I remember.

All right. All right. And did you say that you were eligible to work 40 hours per week?---Yes.

All right. And that was the truth as far as you were concerned?---That was the truth and I did give that information or the documentation for it to Greythorn as well when I was asked later to show it.

All right. Now during the course of the interview you were asked about past projects?---Yes.

10 And you – would it be the case that you answered that question putting forward projects that indicated a skillset that was suitable for the job for which you were applying?---Yes, I suppose I did, yes.

*1253nh

All right. And the past projects that you had worked on would your ability to work on those projects imply certain technical skills?---That's correct.

Yes. Thank you. That's the cross examination.

20 THE COMMISSIONER: Yes. Any other questions of Ms Batra? No. Anything arising Mr Hunt?

MR HUNT: It doesn't arise but - - -

THE COMMISSIONER: Yes, you have leave to - - -

MR HUNT: Thank you, Commissioner.

THE COMMISSIONER: - - - ask.

30 MR HUNT: Have you had any contact from either Balu or Sonata since your contract terminated?---So, yes, I might've had a phone call with him after that, yeah.

And just tell the Commissioner about that phone call?---I think it was a regular, I mean a happy New Year or a Happy Diwali kind of phone call which was about – we have a festival which is similar to Christmas and he'd, he'd mentioned - - -

Which is mid, which is mid-November?---Yes, correct.

40 Yeah. All right?---And he'd mentioned that he opened a different – his company was doing some other business. It was, I think it opened an office in Fiji or something so, or somewhere and they were doing some other kind of business so they were trying to contracts and, and - - -

So this was marketing in the guise of a friendly Diwali call effectively?---I guess, yes. That's what he mentioned.

All right. Do I assume correctly that you were not particularly keen to re-engage commercially with Mr Moothedath?---No. After that I haven't engaged with him or didn't want to.

Has he, has he called you or tried to call contact you this year and particularly in relation to say this Commission?---No.

Not at all?---Not at all.

10 Thank you. Thank you, Commissioner.

THE COMMISSIONER: Yes, thank you, Ms Batra. You may step down, you're excused?---Thank you.

THE WITNESS EXCUSED

[12.54]

20 THE COMMISSIONER: I note the time. We'll take the luncheon adjournment. Yes, Mr Chalmers?

MR CHALMERS: Thank you, Commissioner. There was one matter. I can't download the exhibits.

MR HUNT: I'm sorry. I meant, I meant to say it's the -- been the firm intention, Commissioner, and for those in the hearing room that the exhibits would be uploaded to the public site - - -

30 THE COMMISSIONER: Right. We've struck a snag.

MR HUNT: They remain, the bulk of them remain on the restricted site but there's been some technological issues that are being overcome as we speak.

THE COMMISSIONER: Right. Well Mr Chalmers, we'll get them up as quickly as we can but essentially it's also on the intranet to which you have access as I understand?

MR CHALMERS: Well I'll get it now.

40 THE COMMISSIONER: All right. Anything that you want to see in the meantime, Mr Chalmers, if you could ask Counsel Assisting.

MR CHALMERS: I will, thank you, Commissioner.

THE COMMISSIONER: Thank you, yes.

MR CHALMERS: It's a bit disappointing with all the technical witnesses you've had - - -

THE COMMISSIONER: Oh, I know.

MR CHALMERS: - - - that you couldn't borrow their skills to get it working.

THE COMMISSIONER: I know, I know, I know.

10 MR CHALMERS: Technical expertise is something as you well know, Mr Chalmers, if it can go wrong it does go wrong. Thank you.

LUNCHEON ADJOURNMENT

[12.56pm]